JOURNAL

of the

SENATE

of the

General Assembly

of the

Commonwealth of Kentucky

2005 Regular Session

Volume I

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2005,
and in the Two Hundred and Thirteenth
Year of the Commonwealth

Begun on Tuesday, the Fourth Day of January, 2005, and Adjourned
Sine Die on Monday, the Twenty-First Day of March, 2005

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each chamber of the General Assembly to keep a journal as a public accounting of daily legislative activity. The journal is the official record of action.

The Kentucky Revised Statutes require the Legislative Research Commission to compile, edit, correct, and publish the journals of each chamber. This is the Senate Journal for the Regular Session of the 2005 General Assembly.

Texts of bills, joint resolutions, and concurrent resolutions appear in the journal on the day of their first reading. Texts of simple resolutions appear on the day of either their first reading or adoption. Texts of committee amendments appear when they are reported out of committee and floor amendments are inserted at the end of the day on which they were filed. The appendices include a table of actions on bills and resolutions, a list of elected senators, roll call votes, and a sponsor and subject index.

Suzanne Casey and Jeanette Barrett prepared the *Senate Journal* for the 2005 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2005

TABLE OF CONTENTS

2005 Regular Session

VOLUME I

Tuesday, January 4, 2005 through Thursday, February 3, 2005 Pages 1 through 1552

VOLUME II

Friday, February 4, 2005 through Monday, February 28, 2005 Pages 1553 through 2888

VOLUME III

Tuesday, March 1, 2005 through Monday, March 21, 2005 Pages 2889 through 3764

Appendix A - Senate Membership Pages 3765 through 3768

Appendix B - Final Budget Memorandum Volume I Pages 3769 through 4066

VOLUME IV

Appendix B Continued - Final Budget Memorandum Volumes II - VI Pages 4067 through 5202

Appendix C - History of Action Tables on Bills and Resolutions Pages 5203 through 5221

Appendix D - Roll Call Votes Pages 5223 through 5249

Appendix E - Sponsor and Subject Index Pages 5251 through 5345

JOURNAL
# of the
SENATE
# of the
GENERAL ASSEMBLY
# of the
COMMONWEALTH OF KENTUCKY
REGULAR SESSION 2005
TUESDAY, JANUARY 4, 2005
FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on Tuesday, January 4, 2005, the two hundredth and thirteenth year of the Commonwealth, in accordance with the provisions of the Constitution, the Honorable David Williams, President of the Senate, assumed the chair and called the Senate to order.

Prayer by Dr. Ronald W. Summers, St. Andrews Episcopal Church, Fort Thomas.

The Pledge of Allegiance to the Flag was given.

The newly elected Senators appeared before the bar of the Senate and were administered the oath of office by Kentucky Supreme Court Chief Justice Joseph E. Lambert.

Senator Kelly moved the following be seated as members of the Senate. Agreed.

1st District	Kenneth Winters
2nd District	Robert J. "Bob" Leeper
3rd District	Joey Pendleton
4th District	J. Dorsey Ridley
5th District	Carroll Gibson
6th District	Jerry P. Rhoads
7th District	Julian M. Carroll
8th District	David E. Boswell, Sr.
9th District	Richard "Richie" Sanders
10th District	Elizabeth Tori
11th District	Richard L. "Dick" Roeding
12th District	Alice Forgy Kerr
13th District	Ernesto Scorsone
14th District	Dan Kelly
15th District	Vernie McGaha
16th District	David L. Williams
17th District	Damon Thayer
18th District	Charlie Borders
19th District	Tim Shaughnessy
20th District	Gary Tapp
21st District	Tom Jensen
22nd District	Tom Buford
23rd District	Jack Westwood
24th District	Katie Kratz Stine
25th District	Robert Stivers
26th District	Ernie Harris
27th District	Walter "Doc" Blevins
28th District	R. J. Palmer II
29th District	Johnny Ray Turner
30th District	Daniel Mongiardo
31st District	Ray S. Jones II

32nd District	Brett Guthrie
33rd District	Gerald Neal
34th District	Ed Worley
35th District	Denise Harper-Angel
36th District	Julie Rose Denton
38th District	Dan "Malano" Seum

Senator Kelly stated that the question before the Senate is on the establishment of the membership of the Senate and moved that Virginia Woodward should not be seated on the grounds that she was not the choice of a majority of the votes cast by the voters of the 37th Senatorial District. The motion was adopted by voice vote.

The roll was called. All senators certified were present.

Senator Kelly moved to nominate Senator Williams as President of the Senate.

Senator Roeding assumed the chair.

Senator Kelly moved that nominations cease and that Senator Williams be elected by acclamation. Agreed.

The oath of office was administered to President Williams by the Honorable Robyn E. Williams, 40th Judicial District.

Introduction of New Bills and Resolutions

SR 1, A RESOLUTION adopting the Rules of Procedure for the 2005 Regular Session of the Senate, by Senator Williams.

Motions, Petitions and Communications

Senator Kelly moved to adopt **SR 1**. Agreed.

SR 1 is as follows:

SR 1, A RESOLUTION adopting the Rules of Procedure for the 2005 Regular Session of the Senate.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The following Rules of Procedure are adopted to govern the 2005 Regular Session of the Senate:

Rule 1.Hours of Meeting. The Senate shall meet at the call of the members. The official time shall be governed by the clock over the main entrance to the Senate Chamber.

Rule 2.Quorum. A majority of the Senators elected to the Senate shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the Senate, four Senators may adjourn or recess from day to day or from time to time and eight Senators may order a call of the Senate and send for absent Senators.

Rule 3.Call of the Senate. Upon a call of the Senate, the Clerk shall call the roll, then call the absentees again. The doors of the Senate Chamber shall then be closed and the absentees not excused by the Senate may be sent for and arrested by the Sergeant at Arms.

The Senate shall determine upon what conditions they shall be discharged from arrest. Senators who voluntarily appear shall be immediately admitted to the floor of the Senate and their names entered upon the Journal as present, unless the Senate otherwise directs.

ORDER OF BUSINESS

Rule 4.Order of Business. The order of business shall be as follows:

1. Invocation
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Journal
5. Second Reading of Bills
6. Report of Committees
7. First Reading of Bills
8. Motions, Petitions, and Communications
9. Introduction of New Bills and Resolutions
10. Orders of the Day
11. Report of Reference of Bills to Committee
12. Committee on Rules Report
13. Announcements

14. Introduction of floor amendments
15. Adjournment

No more than thirty minutes shall be allotted to Motions, Petitions, and Communications.

Rule 4A. Order of Business on First Day of the 2005 Regular Session. The order of business on the first day of the 2005 Regular Session shall be as follows:

1. Invocation
2. Pledge of Allegiance
3. Establishment of the membership of the Senate
4. Administration of oath to members
5. Roll Call
6. Election of President of the Senate
7. Adoption of Rules
8. Election of President Pro Tempore of the Senate
9. Recess for party caucuses to elect party officers
10. Report of party caucuses
11. Election of Constitutional Officers
12. Introduction of New Bills and Resolutions
13. Meeting and report of Committee on Committees
14. Motions, Petitions, and Communications
15. Announcements
16. Introduction of Floor Amendments
17. Adjournment

Rule 5. Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. Reading of Motions. When a motion has been made and seconded, it shall be stated by the President, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. Withdrawal of Motions. Every oral motion after it has been stated by the President, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the Senate and shall not be withdrawn without consent of the Senate. Every written motion, report or measure may be committed or recommitted at the pleasure of the Senate.

Rule 8. Order of Questions. All questions, whether in Committee of the Whole or in the Senate, when not a privileged question, shall be propounded in the order in which they were moved, except that in filling blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the Senate when there is no quorum present.
2. To fix the time to which the Senate shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a Senator is speaking, while a vote is being taken, or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and any pending amendments as are in order. The effect of the previous question shall be to put an end to all debate, to prevent the offering of additional amendments and to bring the Senate to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the Senators elected. On the call of the roll, no Senator shall be allowed to speak more than three minutes to explain a vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. Motion to Set the Limits of Debate. A motion to extend a time limit for debate on a measure beyond that permitted under Rule 12 shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the President evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a Senator who voted upon the prevailing side of the question; nor shall that motion be in order unless made within two legislative days in which the Senate is in session next after the day the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any Senator. A motion to reconsider a vote on a bill or resolution not in the possession of the Senate shall not be in order.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend, and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measures. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any Senator, but it shall not again be read on the same day unless so ordered by the Senate.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No Senator shall be absent from a session of the Senate without leave from the Senate.

Rule 22. Decorum of Members. No Senator shall designate another Senator by name.

Rule 23. Call to Order. If any Senator, in speech or otherwise, transgresses the rules of order or decorum, the Senator shall immediately be called to order by the chair and shall be seated. The Clerk shall reduce the objectionable words to writing and read them to the Senate. After hearing a short explanation from the Senator called to order, or upon the withdrawal of the objectionable language, the President may permit the Senator to proceed, or may require the Senator's silence until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the Senate. A Senator offending the Senate shall be liable to censure.

Rule 24. Debate. No Senator may speak more than once to the same subject until all Senators desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No Senator shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the President.

Rule 25. Members Shall Vote at Seats. A Senator shall vote only when at the Senator's seat or visibly approaching it.

OFFICERS AND EMPLOYEES

Rule 26. President. On the first day of the Regular Session in an odd-numbered year, or at any time there is a vacancy in the office of President, immediately following the adoption of the Rules, the President of the Senate shall take the chair to receive nominations from the floor and to preside over the election of the President. The member who receives the votes of a majority of the members elected shall be the President. If there is more than one nominee, the election of each nominee shall be treated as an alternative proposition, with each name being put to the Senate in the order in which nominated. The first nominee receiving the votes of a majority of those elected to the Senate shall be declared elected. If no member receives the votes of a majority of the members elected, the election is of no effect.

The President shall take the chair every day precisely at the hour fixed for the meeting of the Senate and shall call the Senate to order and direct the Clerk to call the roll, whereupon, if there is a quorum present, the Order of Business shall be followed.

The President shall preserve decorum and order and, in the event of any disorder in the gallery or in the Senate Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the Senate when the paper is issued; and the officer's signature shall be attested by the Clerk, when ordered by a majority of the Senators.

The President may designate any Senator to preside in the absence of both the President and President Pro Tem and to perform all duties of the President, including duties as a member of the Committee on Committees. This designation by the President may be made from time to time or for any period of time as the President may designate.

Rule 27. Appeal from Decision of Chair. The President while presiding may speak to points of order in preference to Senators. The President shall decide points of order and manner of procedure. If two or more Senators arise from their respective seats and address the chair, the President shall determine who was first and recognize that Senator.

Any decision made by the President shall be subject to appeal to the Senate. During the pendency of any appeal to the Senate from a decision of the chair, the President shall vacate the chair and call the President Pro Tem to preside. When the President Pro Tem is presiding on an appeal to the Senate from a decision of the President, no motion or business shall be in order except the motion on appeal from the decision of the President, and that motion shall not be debatable. Upon an appeal, the question put to the Senate shall be stated as follows: "Shall the decision of the President stand as the judgment of the Senate? An 'Aye' vote shall support the President's ruling, and a 'Nay' vote shall oppose the President's ruling." The ruling of the President shall be sustained unless a majority of the members elected to the Senate oppose the ruling.

Rule 28. President Pro Tempore. The Senate shall elect a President Pro Tem, who shall perform the duties of the President when the President is absent from the Senate, or when empowered by the President to perform the duties of the chair.

Rule 29. Duties of Clerk. The Clerk shall have charge and supervision of all the clerical business of the Senate. The Clerk shall have charge of the Clerk's section of the Senate Chamber and shall see that no one is permitted therein except the Clerk and those assisting the Clerk.

The Clerk shall read to the Senate papers ordered to be read; call the roll and note and report the absentees when a call of the Senate is ordered; call the roll and note the answers of members when a question is taken by yeas and nays; assist the President in taking the count when any vote of the Senate is taken; notify committees of their appointment and business referred to them; attest all writs, warrants and subpoenas issued by order of the Senate; keep a calendar indicating bills entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the House, unless otherwise ordered.

Rule 30. Journal of Proceedings. The Clerk shall cause to be kept the Journal of the proceedings of the Senate. The Clerk shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the Senate. The Senate may correct errors in the Journal the day the Journal containing errors is presented to the Senate. No record which is in the hands of the Clerk and is required by law to be entered upon the Journal of the Senate shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved. Half an hour before the time fixed for the meeting of the Senate each day, the Clerk or an assistant shall be present at the Clerk's desk with the minutes of the preceding session for the inspection of any member of the Senate.

The Clerk shall transmit the Journal for each day as soon as it has been approved by the Senate to the Legislative Research Commission, which shall deliver it to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Clerk shall have custody of all records, papers and bills of the Senate and shall not allow them to be taken out of the Clerk's possession without the leave of the Senate, unless to be delivered to the chairman of a committee to which they have been referred or to the Legislative Research Commission, as specified in these rules, and then the Clerk shall take a proper receipt therefor. The Clerk shall endorse on bills and papers brief notes of proceedings had thereon by the Senate and preserve the same in convenient files for reference. The Director of the Legislative Research Commission shall implement a policy to provide for the maintenance and distribution of the records, papers, and bills of the legislative branch.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of Senate Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the Senate as certified by the Clerk, and the public printer shall print only those documents and other matters as the Legislative Research Commission authorizes. The Clerk shall report to the President, to be submitted to the Senate, every failure of the printer to execute work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and Doorkeeper to exclude or remove all persons not entitled to the floor of the Senate. One hour before convening of the Senate each day the Sergeant-at-Arms shall announce in a loud distinct voice: "All persons not entitled to the floor of the Senate under the rules thereof will now vacate the Senate Chamber." The Sergeant-at-Arms shall then compel all persons who are not entitled to remain therein to leave the Senate Chamber and shall prohibit their entry until thirty minutes after the Senate has adjourned.

The Sergeant-at-Arms of the Senate, before any joint session is to be held, shall request the Sergeant-at-Arms of the House to arrange for the seating of the members of the Senate in a body. The Senators will assemble in the Senate Chamber five minutes before the meeting of any joint session and go to the House in a body.

Rule 35. Appointment and Conduct of Constitutional Employees. The constitutional employees of the Senate shall be appointed by election during the regular sessions of the General Assembly and shall serve one year terms or until the election of their successors.

All the constitutional employees of the Senate shall, one hour before the meeting of the Senate each day, report to the Clerk, who shall report to the Committee on Committees whether all of said employees are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the Senate any dereliction of duty.

Rule 36. Other Employees. All other professional, clerical and other employees required by the Senate or any of its committees shall, as authorized by the Committee on Committees, be provided by the Legislative Research Commission. Employees performing those services shall be under the supervision of the Committee on Committees.

No officer or employee of the Senate shall receive any fee, tip or compensation from any Senator and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the President, the President Pro Tem, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Whip, the Minority Floor Leader, the Minority Caucus Chairman, and the Minority Whip of the Senate.

The majority of this committee shall have full power to act on all matters referred to the committee either by these rules or by action of the Senate. A meeting of the Committee on Committees may be called by the President, the Majority Floor Leader, or a majority of the committee members.

The President shall be Chairman of the Committee on Committees, and in the President's absence, the Majority Floor Leader shall serve as Chairman.

All bills and resolutions bearing the force and effect of law shall, upon their introduction, be automatically referred to the Committee on Committees which shall refer same to the proper committee not later than the third day in which the Senate is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employees of the Senate whether elected by the Senate or appointed by the Committee on Committees or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the Senate and the members thereof. The Committee on Committees is empowered to discharge any or all of said employees and officers except the constitutional officers of the Senate. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon.

Rule 38. Standing Committees. The following shall be the standing committees of the Senate:

1. Agriculture and Natural Resources
2. Appropriations and Revenue
3. Banking and Insurance
4. Economic Development, Tourism, and Labor
5. Education
6. Health and Welfare
7. Judiciary
8. Licensing, Occupations, and Administrative Regulations
9. State and Local Government
10. Transportation
11. Veterans, Military Affairs, and Public Protection

The standing committees of the Senate shall operate for the duration of a regular session and throughout any special session. On sine die adjournment of the General Assembly, the standing committees of the Senate shall be constituted subcommittees of the Legislative Research Commission pursuant to KRS Chapter 7.

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of committees and standing subcommittees in proportion to the representation of each political party in the Senate. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees and the chairmen thereof to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of committees and standing subcommittees, the number of members on the committee to be appointed shall be established by the Committee on Committees. At the same time, the Committee on Committees shall establish the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than twelve members to any one standing committee, except the Committee on Appropriations and Revenue, the Committee on Education, and the Committee on Veterans, Military Affairs and Public Protection.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. **Agriculture and Natural Resources:** matters pertaining to crop, livestock, poultry and their marketing, disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage, and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; water pollution; noise pollution; air pollution; protection of the environment; management of waste; the Natural Resources and Environmental Protection Cabinet; the State Fair; county fairs; privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development; energy waste disposal; the Public Service Commission; solar and other renewable energy; hydroelectric and thermo-nuclear energy; and gasohol.

2. **Appropriations and Revenue:** matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. **Banking and Insurance:** matters pertaining to banking; banks and trust companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. **Economic Development, Tourism, and Labor:** matters pertaining to commerce, industry, economic and industrial development, the workforce and the workplace, and tourism not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels, electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

5. **Education:** matters pertaining to public primary, secondary and higher education; the State Board of Education; the State Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; school curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; regional education; educational television.

6. **Health and Welfare:** matters pertaining to human development, health, and welfare; fire prevention and protection; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; assistance to children; children's homes; disabled persons; aid to the blind; commitment and care of children and families; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; hospitals, clinics and long-term care facilities; foods, drugs and poisons; hotel, restaurants and trailer park regulations; sanitation plants; sanitation districts;

alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentist and dental specialists; nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

7. **Judiciary:** matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, circuit courts and district courts; family courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of courts; juries; attorneys; receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional facilities; civil rights; and juvenile matters.

8. **Licensing, Occupations, and Administrative Regulations:** review of administrative regulations; matters pertaining to professional licensing not assigned specifically to another committee; racing; prizefighting and wrestling; places of entertainment; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and agents; public accountants; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; trade practices.

9. **State and Local Government:** matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant Governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; administrative agencies; Department of Law; constitutional offices; state personnel; state retirement systems; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; libraries, including library districts, city and county libraries, and county law libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks; the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; conduct of regular and primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots; the officers, organization, government, and financing of county and city governments; urban-county governments generally; county and city imposed taxes and licenses; special purpose assessment and taxing districts within a city; financing of local government improvements; issuance of bonds for county, city, and special district projects; local government indebtedness generally; compensation of county and city officers and employees; the imposition of duties and costs on local governments; interlocal government cooperation and consolidation of services; local government employees civil service and retirement; powers, duties, and composition of fiscal courts and municipal legislative bodies; the offices of county judge/executive, magistrate, county attorney, sheriff, constable, jailer, coroner, surveyor, and county clerk; forms of local government; incorporation and classification of cities; housing projects; urban renewal and redevelopment; planning and zoning; annexation of territory; public works; parks and playgrounds; police and fire departments and their retirement systems; county roads; city streets and sidewalks; local government utilities and waterworks; acquisition of waterworks and water districts by local governments; sewers; metropolitan sewer and sanitation districts; public road districts; water districts; fire protection districts; drainage districts and local flood control and water usage; local air pollution control districts; urban service districts; and special districts not assigned to another committee.

10. **Transportation:** matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Transportation Cabinet; state aid for local roads and streets; the state police; the Federal Highway Safety Law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; bill boards; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

11. **Veterans, Military Affairs, and Public Protection:** matters relating to veterans, including veterans' rights, benefits and education; veterans' nursing homes; military affairs and civil defense; national guard; retention of military bases; safety of citizens and security of public buildings and property; military memorials and cemeteries.

Rule 41. **Rules Committee.** There shall be a Rules Committee composed of the same membership as the Committee on Committees.

All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to the committee which has reported out the bill or resolution, or to the Committee on Appropriations and Revenue in those instances in which the fiscal implications of the measure may require additional consideration.

No bill or resolution may be considered by the Rules Committee except on call of the Chairman or by a vote of a majority of the members of the committee. No bill or resolution shall be referred back by the Rules Committee on more than one occasion. No bill or resolution may be retained by the Rules Committee for more than five successive legislative days in which the Senate is in session, except those referred to the Rules Committee with associated amendments, reports, or messages pursuant to Senate Rule 59. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee, unless otherwise ordered posted for the next succeeding legislative day by a majority of the Senators voting.

The Rules Committee shall arrange the Orders of the Day so that all measures for the consideration of the Senate shall appear thereon, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the Senate. The Rules Committee shall post a notice in a regular place in the Senate Chamber listing the bills to be considered in the Orders of the Day. Should the Senate not complete a day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The President of the Senate shall be the Chairman of the Rules Committee. The Majority Floor Leader of the Senate shall act for the Rules Committee in calling any bills or resolutions from the Orders of the Day and shall be recognized by the President for that purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The President Pro Tem shall act as chairman in the absence of the President.

Meetings of the Rules Committee shall be open to members of the Senate, members of the media, and others the committee may invite; except no cameras or other recording devices shall be used while the committee is in session. No one other than a member of the Rules Committee shall address the committee except upon invitation of the Chairman or a majority of the members of the committee.

Rule 42. Standing Subcommittees. The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of at least three members each:

1. Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection;
2. Subcommittee on Education;
3. Subcommittee on General Government, Finance, and Public Protection;
4. Subcommittee on Human Resources;
5. Subcommittee on Justice and Judiciary;
6. Subcommittee on Transportation.

The Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection shall be authorized to review all personal service contracts and memoranda of agreement other than those issued by the Transportation Cabinet. The Subcommittee on General Government, Finance, and Public Protection shall be authorized to review capital projects and capital planning. The Subcommittee on Transportation shall be authorized to review all expenditures of the Transportation Cabinet and all contracts and memoranda of agreement issued by the Cabinet.

Of the members of each subcommittee, one shall be a member of the Committee on Appropriations and Revenue designated by the chairman of that committee. The other subcommittee members shall be appointed by the Committee on Committees. Any member of the Senate may be appointed a member of a subcommittee. If a subcommittee member is not a member of the Committee on Appropriations and Revenue, the member shall be deemed a liaison of the standing committee from which the member was appointed.

The liaison subcommittee members of a standing subcommittee shall have full voting authority in all matters before the standing subcommittee.

The chairman of the Committee on Appropriations and Revenue shall appoint co-chairs of each standing subcommittee. A liaison member may be appointed as a co-chair. The chairman and vice chairman of the Committee on Appropriations and Revenue shall serve as ex officio members of each standing subcommittee.

Rule 43. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than five members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions.

Rule 44. Committee on Conference; Committee on Free Conference. When a Senate bill has been amended in the House and the Senate refuses to concur in that amendment, or when a House bill has been amended in the Senate and the House refuses to concur in that amendment, and when neither will recede from such action, the Committee on Committees shall appoint a Committee on Conference, of three members, to meet a like Committee from the House. The Committee on Conference shall confer with the House Committee and report back to the Senate within a reasonable time, in the same manner as reports are made for Senate bills. The conference report shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy and shall be voted upon, and, if adopted, the bill shall immediately be put upon its final passage. Second and subsequent conference committees may be appointed.

Should a Committee on Conference report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a Committee on Free Conference, consisting of three or more members. The Senate Committee on Free Conference shall meet with a like committee from the House, and may propose any amendment to the bill at issue, except the report of a Committee on Free Conference shall not be in order if it proposes to make a part of the measure at issue the substantial insertion of the text of any other bill which has not passed both the House and the Senate, or if it proposes the enactment of subject matter not previously considered at the session. The President, when the question is raised, shall rule as to the admissibility of the report of the Committee on Free Conference, subject to appeal to the Senate. The free conference report shall be voted upon; if adopted, the bill shall immediately be put upon its final passage, provided, however, that if a motion to reconsider coupled with a motion to lay on the table has been adopted by the Senate, the vote of a constitutional majority of the Senate shall be required to adopt the report of the free conference. Second and subsequent free conference committees may be appointed.

Except for report of disagreement, the consideration of the report of a Committee on Conference or a Committee on Free Conference, and final passage of the bill to which the report is attached shall not be in order on the same legislative day as the bill and report are received by the Senate.

Rule 44A. Majority and Minority Caucuses. The Majority Caucus of the Senate shall consist of all Senate members of majority party affiliation. The Minority Caucus of the Senate shall consist of all Senate members of minority party affiliation. The majority and minority caucuses of the Senate shall be committees, other than standing committees, of the Senate and General Assembly.

Rule 44B. Open Meetings of Committees. The meetings of the committees of the Senate, other than the majority and minority caucuses, shall be open to the public.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Committee on Enrollment, and a Committee on Conference between the House and Senate shall sit while the Senate is in session, unless by consent of the Senate. The Committee on Committees and Committee on Enrollment may report at any time except during a roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the meetings of each committee, and that schedule shall be posted in the Senate Chamber and published in the Legislative Record. A committee shall meet at the scheduled time and place, so long as business is pending before the committee. A committee chairman may recess a committee meeting on the chairman's own motion for a definite period of time, not to exceed fifteen minutes.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

Rule 46. Committee Reports. Every Committee should report the disposition of every bill and resolution referred to it as promptly as possible. A standing committee may report a bill or resolution in the following manner:

"With the expression of opinion that the same should pass," or,

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or,

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or,

"Without expression of opinion."

Rule 47. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill or resolution. The chairman shall keep a record of the vote of each member on the disposition of each bill which shall be filed with the Clerk. The chairman may sign reports on behalf of a majority of the committee members. The chairman's signature shall attest to the action of a majority, but shall not be construed as the chairman's personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report; it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The committee's report shall always be read before the minority report is read.

Rule 48. Failure to Report. Whenever a committee fails or refuses to report a bill submitted to it, any member may, upon filing with the Clerk a written petition to determine if the committee has held the bill for an unreasonable time, call the petition for consideration on the next succeeding legislative day after its filing. If a majority of the members elected to the Senate concur that the bill has been held an unreasonable time by voting to approve the petition, the bill shall be considered as though it had been regularly reported and shall be given its first reading and thereafter treated as any other bill which had been reported from a committee.

Rule 49. Procedure in Committee. The rules of procedure in the Senate shall be observed in committee insofar as the same are applicable.

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be printed on the computerized bill preparation system of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and four distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of the original bill, provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Clerk for the use of the Senate until engrossed and sent to the House. A replacement original of a bill, generated pursuant to these Rules, shall thereafter be considered the original and official bill. One copy shall be used for committees. Two copies shall be for the use of the media and shall be given to a person designated by the media. One copy shall be provided to the Legislative Research Commission. All copies shall be backed with a protective cover as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the Senator introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, which seek to amend existing sections of the Kentucky Revised Statutes, any new matter contained therein shall be underscored; when an amendment proposes the elimination of matter in an existing law, the elimination shall be indicated on the bill by placing the material proposed to be eliminated in brackets, and by striking through the material with slash marks so as not to render the words illegible. Any section of a bill seeking to repeal a section or sections of the Kentucky Revised Statutes shall set forth in addition to the statute section number the statute section headnote as it appears in the Kentucky Revised Statutes. The Clerk shall refer to the Legislative Research Commission any bills offered for introduction not conforming with the computerized bill preparation system of the Legislative Research Commission.

Rule 51. **Introduction of Bills.** Bills and resolutions may be filed with the Clerk any time the Clerk's office is open. Bills and resolutions that have been filed with the Clerk shall be introduced in the regular Order of Business. The Clerk or an assistant Clerk shall be present at the Clerk's desk in the Senate Chamber one hour prior to the time fixed for convening each day to receive bills and resolutions. Bills and resolutions filed after the Senate has concluded Introduction of New Bills and Resolutions in the Order of Business shall be introduced on the next legislative day. The Clerk shall number bills in the order received, record their introduction, and transmit a copy immediately to the Committee on Committees for reference to committee. In a regular session in an even-numbered year, no bill or resolution having the force of law shall be introduced after the 40th legislative day of the session. In a regular session in an odd-numbered year, no bill or resolution having the force of law shall be introduced after the 14th legislative day of the session. The two legislative days immediately prior to the last two legislative days shall be reserved by the Senate exclusively for the business of concurring in amended Senate bills. The last two legislative days shall be reserved by the Senate exclusively for the purpose of considering vetoed bills.

Rule 52. **Fiscal Statement.** A sponsor of a bill which, if enacted, would affect the revenues or expenditures of the Commonwealth generally, may at any time by request cause the staff of the Legislative Research Commission to analyze and prepare a fiscal statement for the measure. The staff of the Legislative Research Commission shall analyze and prepare a fiscal statement for any bill which, if enacted, would fiscally affect local governments in a significant manner through the imposition of a local mandate; constitute a mandated health benefit; change the financial liability of any public retirement system administered by an agency of state government; or fiscally affect state or local corrections services in a significant manner, including any bill which would modify or create a criminal penalty or otherwise affect the population of a correctional system or facility. The chairman or a majority of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill prior to final committee action. No measure for which the preparation of a fiscal statement has been requested or is required pursuant to this rule shall be placed in the Orders of the Day until the fiscal statement is attached. Members may require, by majority vote, that a fiscal statement be prepared for any bill on the Orders of the Day not otherwise requiring preparation of a fiscal statement. In that instance, the fiscal statement shall be attached to the bill prior to final consideration on the floor of the Senate. The requirement for a fiscal statement may be waived by a vote of a majority of the members elected to the Senate.

Rule 53. Fiscal Statements for Amendments. Any member proposing an amendment from the floor which relates to fiscal matters described in Rule 52 shall cause a fiscal statement to be prepared and attached to the amendment. Until the time the fiscal statement is prepared and attached to the amendment, action on the bill to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day.

Rule 54. **Reference of Bills.** The Committee on Committees shall refer all bills to the proper standing committee not later than the third day in which the Senate is in session after the date of introduction. When a Senate bill has been amended in the House and has been returned to the Senate for concurrence in the amendment, it shall be referred to the Rules Committee, which may refer the bill to a standing committee or post the bill in the Orders of the Day. Bills originating in and passed by the House when reported to the Senate shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 55. **Printing of Bills.** Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill, to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary, the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the Senate and of each bill or resolution carrying the force and effect of law acted on by the House and reported to the Senate. Bills shall be printed in the order in which they are introduced and distributed to members immediately upon being printed.

Rule 56. **Readings of Bills.** If a bill is reported without expression of opinion, a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the Senate shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Clerk upon the Calendar, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different days; but the second and third readings may be dispensed with by a majority of all the members elected to the Senate and the bill read by its title.

Rule 57. **Calendar; Consent Calendar.** (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Clerk shall keep a Regular Calendar and a Consent Calendar for each legislative day, showing the bills receiving their second reading.

(b) The Clerk shall also keep a Regular Orders and a Consent Orders, showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may, at the time of favorably reporting any Senate or House Bill, recommend that it be placed in the Consent Calendar, provided:

(a) The primary sponsor has so requested, when it is a Senate Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from the committee by a unanimous vote of the members present.

Any Senate or House Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in the Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar, showing the request of the sponsor of any Senate Bill, and the unanimous recommendation of the members present, signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of the bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders, each bill in those Orders shall be given a third reading by title only. The President shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Clerk shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Clerk a "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) Upon the call for the question on the Consent Orders, the President shall instruct the Clerk to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, that bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders, as provided in these rules.

Rule 58. Orders of the Day. When a bill has had its second reading it shall be referred to the Rules Committee to be placed in the Orders of the Day, or be recommitted, and when next reached in the Senate it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the President shall so announce to the Senate.

Except as provided in Rule 41, a bill may be recommitted or amended at any time before its passage. Bills shall be placed in the Orders of the Day and shall be taken therefrom in accordance with Rule 41. When a Senate bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical House bill which is in the Calendar of the Senate.

No bill shall be taken from the Orders of the Day unless it shall have been previously distributed to the members. No bill, amendment, or committee substitute relating to congressional or legislative redistricting shall be taken from the Orders of the Day unless it shall have been verified by Legislative Research Commission staff using the Commission's redistricting software, as evidenced by the Legislative Record summary notation "PLAN INTEGRITY VERIFIED" and the "Geographic Integrity Verified" notation on amendments.

Rule 59. Concurrence in Amendments and Reports of Conference Committees; Receding from Amendments; Final Passage. When a Senate bill and message have been received from the House requesting concurrence in an amendment or amendments adopted thereby, or when a report of a conference committee or a veto message is received, the bill and message or report so received shall be referred to the Rules Committee for posting to the Orders of the Day or referral of a bill for concurrence to a standing committee as provided in Rule 54. The Clerk shall distribute appropriate copies of the bill and its proposed amendment, report, or message to each member of the appropriate committee. The Rules Committee may post those bills to Orders of the Day for consideration of the amendment, report, or message, and final passage, giving precedence to those over all other matters posted.

When bills with amendments for concurrence or with conference committee reports are reached in Orders of the Day, the President shall first put the question of concurrence in the amendment or report, and if the vote on that question is favorable, the bill shall be put immediately upon its final passage.

Rule 60. Amendments to Bills. All amendments offered by a committee or by an individual Senator shall be typewritten on forms with a proper heading, furnished by the Legislative Research Commission. Each amendment shall bear in addition to the signature of the Senators offering it, an indication of review by the staff of the Legislative Research Commission. All amendments shall refer to the proper page and line of the printed bill. An original and six copies of each amendment shall be filed. The Clerk shall not accept for filing any amendment not conforming with this Rule as to form. Amendments filed with the Clerk shall be introduced in the regular Order of Business. Amendments may be filed with the Clerk any time the Clerk's office is open, and at the Clerk's desk in the Senate Chamber while the Senate is in session. The Clerk shall forward two copies to the Legislative Research Commission. No amendment shall be in order that is not germane to the matter under consideration and that has not been filed prior to adjournment at least one legislative day prior to consideration of the bill or resolution. The President, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the Senate.

No amendment to a bill under consideration shall be in order if it contains the substantial text of the language of any other bill introduced during the session which has not passed the Senate. When an amendment is drafted which contains the substantial text of any bill introduced during the session, the staff of the Legislative Research Commission shall identify the amendment. When a question is raised as to the identity of a proposed amendment containing the substantial text of any other bill introduced during the session which has not passed the Senate, the President shall rule thereon, subject to appeal to the Senate.

If a proposed floor amendment to a branch budget bill will result, if adopted, in a loss of revenues or an increase in expenditures for a budget unit, the amendment shall specify by budget unit the source of funds that will offset the loss of revenues or specify the budget unit or other source of funds that will support the increased expenditures. If a budget unit or other source of funds is specified, the amendment shall include all necessary language to effect the changes.

A committee substitute, upon its adoption, shall be considered as the original bill for purposes relating to the permissible degree of further amendment of the bill. Any proposal to amend the title of a bill shall be by separate title amendment. The question of adoption of an offered title amendment for a bill shall be presented to the body immediately after adoption of the bill.

Rule 61. Engrossment of Bills. Every Senate bill and joint resolution, together with the amendments thereto, which has been passed by the Senate and not subject to further amendment or motion, shall be engrossed by the Clerk. The Clerk shall endorse thereon the day of passage or adoption. The bill shall be delivered to the House in open session by the Clerk or someone designated by the Clerk, and the House concurrence asked therein. A like procedure shall be observed toward House bills.

When engrossing a bill, the Clerk may incorporate amendments by means of typing or by generating a replacement original of the bill through computerized process.

Rule 62. Enrollment of Bills. All Senate bills and resolutions which have passed both the Senate and the House shall be delivered by the Senate Clerk to the Enrolling Clerk, taking a receipt therefor. The Senate Clerk shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate, in a suitable record book attesting the fact and date of passage.

If a bill which originates in the Senate is amended by the House and the Senate concurs in the amendments proposed and adopted by the House, the Clerk of the Senate shall engross said amendments in the original copy of the bill by typing or may generate a replacement original copy of the Senate bill through computerized process. The Clerk shall deliver a printed copy of the original bill or replacement therefor, if applicable, to the Legislative Research Commission, taking a receipt therefor. The Commission then shall prepare the amended enrolled copy, and return the copy to the Enrolling Clerk of the Senate.

The original bill or resolution or replacement therefor, if applicable, and the enrolled copy prepared by the Legislative Research Commission shall be delivered to the Committee on Enrollment. The Enrolling Clerk shall certify that each is in the exact form as finally passed prior to delivery. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrollment copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the Senate. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 63. Signing of Bills. The Enrolling Clerk of the Senate shall deliver the original and enrolled copies of Senate bills and resolutions signed by the President or the President Pro Tem to the Chairman of the Enrollment Committee of the House for presentation to the Speaker of the House for the Speaker's signature. When signed by the Speaker of the House, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the Senate, who shall present the enrolled bill or resolution to the Governor for approval and take the Governor's receipt for same.

Rule 64. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. A simple or concurrent resolution expressing the will of the Senate shall, upon its introduction, be referred to the Committee on Committees, which may refer it to the floor if it is honorary, benevolent, and does not direct further action; otherwise, it shall be referred to a standing committee. Resolutions referred to a standing committee may be considered for adoption only after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. All resolutions recommending a study by an interim committee, task force, or special committee of the Legislative Research Commission shall include the following language: "Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date." All resolutions recommending a study, or which recommend creation of a task force or special committee of the Legislative Research Commission shall be concurrent or joint resolutions.

Rule 65. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the Senate or of the General Assembly with reference to a person or event.

Each citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions, and Communications," and without objection shall be adopted upon motion of the sponsor. Citations shall be offered for consideration through presentation to the Clerk.

VOTING

Rule 66. Roll Call. Any member, with a second, may demand a roll call on any matter pending before the Senate. The names of Senators shall be arranged alphabetically when taking a yea and nay vote.

Rule 67. Pairing. All pairs announced in the Senate shall be entered on the Journal.

Rule 67A. Participation in committee by videoconferencing. A member of the Senate shall be allowed to participate and vote via videoconferencing in all matters before a Senate committee if the following conditions are met:

1. The member is experiencing a short-term physical condition, because of which a physician states the member shall not travel from home or hospital. The member shall file with the Rules Committee the physician's written statement verifying the member's inability to travel; and

2. The member's illness or incapacity does not permit travel for at least one week but not more than four weeks; and

3. The member pays all expenses related to implementing the videoconferencing connection between the committee meeting rooms and the member's remote location; and

4. The Rules Committee approves the member's request for implementation of a videoconferencing connection.

If the Rules Committee approves the member's request to participate via videoconferencing, the Committee on Committees shall arrange for committees to which the member belongs to meet in rooms equipped with videoconferencing capability. If the only meeting room available is scheduled to be occupied by a committee of the House of Representatives, the Committee on Committees shall make a written request to the Clerk of the House, asking that arrangements be made to exchange meeting rooms with the Senate committee which seeks to use the videoconferencing room.

Rule 68. Division of the Senate. If the President is in doubt as to the result of a viva voce, or a division is demanded, the Senate shall divide. Those voting in the affirmative shall first rise and be counted, and the President shall announce the number of those so voting. Those voting in the negative shall then rise and be counted and the President shall announce the number so voting. The President may appoint tellers to count those voting.

Rule 69. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of adjournment arrives, the same shall stand extended until after the yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 70. Persons Entitled to the Floor. When the Senate is in session, including any time that the Senate has resolved itself into a committee of the whole, and one hour before and one-half hour after no person shall be permitted upon the floor, except the present members of the General Assembly and all officers and employees of the Senate and members of the immediate family of Senators. Bona fide news media correspondents shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the Senate and assigned by the Committee on Committees to a press section specifically set aside for them. The clerk of the Senate shall provide proper identification for families of Senators. The doorkeepers shall not admit these persons without proper identification.

Any person may be extended the privilege of the floor by invitation previously extended by a majority vote of members of the Senate, but that privilege shall be extended only for a specified time and purpose. No person who shall have been extended the privilege of the floor for a specified time shall engage in any activities for or against any bill, motion or other proceeding upon the floor of the Senate while in session. No privilege of the floor shall be granted to any registered or unregistered lobbyist or legislative agent if the same be known by the Senate, and it shall be the duty of any Senator having this knowledge to bring it to the attention of the Senate, and lobbying shall be grounds for revocation of this privilege.

A special section of the gallery shall be reserved for the guests of members, who shall be admitted upon presentation of an identification card. Senators may submit the names of guests to the Clerk, who shall read the names to the Senate.

Rule 71. Restriction of lobbying and access to the Senate Chambers and office areas. No person shall engage in lobbying for or against any measure while the Senate is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the Senate, and no registered lobbyist shall enter that part of the Capitol while the Senate is in session, including any time the Senate has resolved itself into a committee of the whole. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the Senate galleries by any person.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the Senate. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employee of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from a member or employee. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol.

Rule 72. Restrictions. No article, booklet, pamphlet or any other printed matter, other than documents sent by a member identified on the face of the document or its attachments to any other member, shall be placed upon the Chamber desk of any member unless the article, booklet, pamphlet or other printed matter is authorized by the Senate President's office and contains the signature of the author, or the party interested in the distribution thereof is clearly identified. The Sergeant-at-Arms shall be charged with the duty of enforcing this rule and seeing that no individual other than Senate members or employees of the Senate under the direction of the Clerk shall cause materials of any nature to be distributed in the Chamber. Questions as to the propriety of materials shall be referred to the Committee on Committees for resolution. Any unauthorized material shall be collected from members' desks by the Janitor and treated as litter. No material may be displayed upon the screen at the front of the Chamber without authorization of the President.

SENATE CONFIRMATION

Rule 73. **Requests for Confirmation of Executive Appointments.** When a communication is received by the Senate requesting its confirmation of an appointment of an officer or officers to membership on an executive agency body the question of the confirmation shall be referred to the Committee on Committees for its consideration and action. The Committee on Committees shall refer the matter to a standing committee, to the Senate sitting as a committee of the whole, or directly to the Rules Committee. Any question of confirmation of an appointment reported to the floor by a standing committee or the Senate sitting as a committee of the whole shall then be referred to the Rules Committee. Any person whose confirmation of appointment is under consideration by a standing committee or the Senate sitting as a committee of the whole shall appear for the purpose of offering testimony before the committee at its direction prior to final committee action on the matter, unless the appearance is waived by vote of the committee.

RULES

Rule 74. **Mason's Manual.** In the absence of a specific rule of the Senate, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two thirds, it shall mean in this Senate a majority of all the members elected to the Senate.

Rule 75. **Change of Rules.** The Rules of the Senate, after their adoption, shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the Senate; notwithstanding any other rule of the Senate to the contrary, a constitutional majority of the Senate may suspend the rules at any time for any purpose. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

Senator Kelly moved to nominate Senator Stine as President Pro Tem of the Senate.

Senator Kelly moved that nominations cease and that Senator Stine be elected by acclamation. Agreed.

The oath of office was administered to President Pro Tem Stine by Justice Donald C. Wintersheimer, 6th Appellate District.

Senator Sanders announced the election of the following to majority leadership:

Floor Leader	Senator Kelly
Majority Whip	Senator Seum
Caucus Chairman	Senator Sanders

Senator Turner announced the election of the following to minority leadership:

Floor Leader	Senator Worley
Minority Whip	Senator Pendleton
Caucus Chairman	Senator Turner

Senator Kelly nominated the following as constitutional officers of the Senate:

Chief Clerk	Jay Hartz
Deputy Clerk	Marilyn Burgess
Enrolling Clerk	Barbara Yeary
Sergeant-at-Arms	Wendell Thomas
Chief Doorkeeper	Larry Sutherland
Janitor	William Webb
Page	Brittany Woody

Senator Kelly moved that nominations cease and that those nominated be elected by acclamation. Agreed.

The oath of office was administered to the constitutional officers by Justice Donald C. Wintersheimer, 6th Appellate District.

Introduction of New Bills and Resolutions (cont.)

SB 3, AN ACT relating to off-duty employees of the Department of Parks, by Senators Boswell, Blevins, Scorsone, Pendleton, Mongiardo, and Worley.

SB 4, AN ACT relating to employee benefits, making an appropriation therefor, and declaring an emergency, by Senators Westwood and Thayer.

SB 5, AN ACT relating to special license plates, by Senator Roeding.

SB 6, AN ACT relating to waiver of employee health benefits, making an appropriation therefor, and declaring an emergency, by Senator Buford.

SB 7, AN ACT relating to the closure of schools for elections, by Senator Kerr.

SB 8, AN ACT proposing to create a new section of the Constitution of Kentucky and amend Section 226 of the Constitution of Kentucky, relating to casinos, by Senator Boswell.

SB 9, AN ACT relating to gaming and making an appropriation therefor, by Senator Boswell.

SB 10, AN ACT relating to criminal background investigations, by Senator Tapp.

SB 11, AN ACT relating to operator's licenses, by Senator Buford.

SB 12, AN ACT relating to special license plates, by Senator Turner.

SB 13, AN ACT relating to levy and recall of taxes, by Senator Harris.

SB 14, AN ACT relating to the Support Education Excellence in Kentucky program, by Senators Scorsone and Kerr.

SB 15, AN ACT relating to radiology assistants, by Senator Buford.

SB 16, AN ACT relating to adoption, by Senator Westwood.

SB 17, AN ACT relating to massage therapy, by Senator Westwood.

SB 18, AN ACT relating to death certificates, by Senator Kelly.

SB 19, AN ACT relating to reading, making an appropriation therefor, and declaring an emergency, by Senators Kelly and Westwood.

SB 20, AN ACT relating to certification of phlebotomy technicians, by Senator Buford.

SB 21, AN ACT relating to the motor vehicle usage tax, by Senator Denton.

SB 22, AN ACT relating to elections, by Senator Denton.

SB 23, AN ACT relating to a cancer drug repository program, by Senator Denton.

SB 24, AN ACT relating to newborn screening, by Senator Denton.

SB 25, AN ACT relating to newborn screening tests, by Senator Denton.

SB 26, AN ACT relating to crime prevention, by Senator Scorsone.

SB 27, AN ACT relating to repossession of collateral by secured parties, by Senator Buford.

SB 28, AN ACT relating to newborn screening tests, by Senator Scorsone.

SJR 4, A JOINT RESOLUTION naming the Letcher County Coal Miners Highway, by Senator Turner.

SR 2, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 2005 Regular Session with prayer, by Senator Williams.

SR 3, A RESOLUTION directing appointment of a committee to wait upon the Governor, by Senator Williams.

SR 5, A RESOLUTION adjourning the Senate in loving memory and honor of Jack Wright, by Senator Roeding.

SR 6, A RESOLUTION requesting and urging the congressional delegation from the Commonwealth of Kentucky to support legislation to abolish the federal estate tax permanently, by Senator Buford.

SR 7, A RESOLUTION adjourning the Senate in loving memory and honor of J. T. Collins, by Senator Buford.

SR 8, A RESOLUTION adjourning the Senate in loving memory and honor of Edgar Ray Burrus, by Senator Buford.

SR 9, A RESOLUTION adjourning the Senate in loving memory and honor of Sandi Bastin, by Senator Buford.

SR 10, A RESOLUTION adjourning the Senate in loving memory and honor of John William Muster III, by Senators Boswell, Carroll, Ridley, Rhoads, Pendleton, Mongiardo, and Scorsone.

SR 11, A RESOLUTION adjourning the Senate in loving memory and honor of Theodore Courtney Schrand, by Senator Roeding.

Motions, Petitions and Communications (cont.)

Senator Kelly moved to adopt **SR 2**. Agreed.

SR 2 is as follows:

SR 2, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 2005 Regular Session with prayer.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Sergeant-at-Arms is directed to invite the pastors of the various churches of Frankfort to attend the meetings of the Senate and open daily sessions of the 2005 Regular Session with prayer.

Senator Kelly moved to list all members as co-sponsors of **SR 2**. Agreed.

Senator Kelly moved to adopt **SR 3**. Agreed.

SR 3 is as follows:

SR 3, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The President of the Senate shall appoint a committee of the Senate to join a like committee from the House of Representatives to wait upon the Governor and inform him that the 2005 Regular Session of the General Assembly is prepared to receive any message he may care to deliver.

Senator Kelly moved to approve the Journal of Tuesday, October 19, 2004. Agreed.

Senator Kelly moved to proceed with the election contest. Agreed.

Recess

Senator Kelly moved to recess the Senate for five minutes for a Committee on Committees meeting at the Clerk's desk to adopt rules of procedure under which the Election Contest Board would operate. Agreed.

The President called the Senate to order.

Report of Committees

The Committee on Committees submitted a report concerning the establishment and operation of an Election Contest Board during the 2005 Regular Session.

The President Pro Tem assumed the chair.

The Committee on Committees reported the following:

An application contesting the election for the 37th Senatorial District having been filed with the Senate, the Senate does hereby establish the following method for adjudicating this contest:

Selection of the Election Contest Board

On January 4, 2005, the Senate shall select an election contest board consisting of nine (9) of its elected members to consider the depositions properly filed and to make a report for further action by the Senate.

The Clerk of the Senate shall make available at the clerk's desk for inspection by the elected members a vessel, 37 slips of paper numbered 1 - 36 and then 38 printed with the name of the corresponding Member and 37 capsules. The slips shall then be folded by the Clerk and placed into capsules and each capsule shall be then placed into the vessel. At the direction of the President, the Clerk shall intermix the capsules, he shall then select one capsule from the vessel and hand the capsule to the President of the Senate. The name therein shall be read aloud by the President of the Senate and recorded by the Clerk.

If any member selected swears that he cannot, without great personal inconvenience, serve on the board, or feels an under bias for or against either of the parties, that member may ask to be excused from service. If it appears a member selected is related to either party, or is liable to any other proper objection on the score of his partiality, that member shall be excused from service. Any deficiency in the proper number of selected Board members so created, may be supplied by another draw from the vessel or the Board may proceed so long as a minimum of five (5) members have been selected.

Upon the selection of the Election Contest Board, the Committee on Committees shall meet to issue a report naming the Members selected to the Board and to appoint the Chairman of the Election Contest Board from the Members selected. The Clerk of the Senate shall be the official custodian of all materials pertaining to work of the Board.

The members of the Board shall then be sworn by the President of the Senate to try the contested election.

Operation of the Election Contest Board

Upon adjournment of the Senate on January 4, 2004, the Election Contest Board shall meet in room 327 of the Capitol to conduct its business.

The Election Contest Board shall operate under Senate Rule 49, as a committee of the Senate other than a Standing Committee and as such, open meeting rules will not apply. The fact finding process of the Board will be open to the public and may be broadcast and recorded. The Chairman of the Board will rule on all procedural issues coming before the Board. The Board shall meet at the call of the Chairman and a majority of the members selected small constitute a quorum.

The Election Contest Board shall have the ability to send for persons, papers and records, and may issue commissions for taking proof at the discretion of the Chairman. No request for additional evidence or testimony shall be in order until all the depositions properly filed with the Clerk of the Senate have been heard and considered by the Board. The contestant and contestee may have counsel present at any meeting of the Board at which evidence is presented. The Board, after all evidence has been presented, may retire into chambers to deliberate prior to adopting its report.

Adoption of the Report of the Election Contest Board

The Report of the Election Contest Board shall be adopted by a quorum of its members and signed by each member voting for its adoption. The Board's report shall not be final nor conclusive, but shall be reported to the Senate, by the Senate Clerk, for any further action the Senate deems appropriate. The action of the full Senate on the election contest shall be final.

Senator Stine ruled that the report should be amended to change the date to reflect the year 2005.

Senator Williams moved to adopt the Committee on Committees report. Adopted by voice vote.

Senator Shaughnessy moved to reconsider the vote by which the report of the Committee on Committees was adopted.

Senator Williams moved to pass over reconsideration of the vote and return to Motions, Petitions, and Communications. Agreed.

The President resumed the chair.

Motions, Petitions and Communications (cont.)

Senator Buford moved to be shown as a co-sponsor of **SB 14**. Agreed.

The President Pro Tem assumed the chair.

The President resumed the chair.

Senator Shaughnessy moved to reconsider the vote by which the report of the Committee on Committees was adopted. Agreed.

Senator Kelly moved to consider voice amendments to the Report of the Committee on Committees concerning the Election Contest Board. Agreed.

Senator Scorsone moved to amend the report to allow the Board to select its own chairman. Agreed.

Senator Scorsone moved to apply open meeting rules to the Election Contest Board. The motion was defeated by a vote of Yeas - 14 and Nays - 22.

(See January 4, 2005, vote on motion to amend Committee on Committees report, Appendix)

Senator Kelly moved to adopt the report of the Committee on Committees as amended. Agreed.

The Senate Clerk presented a box and slips of paper containing each member's name for inspection. The slips of paper containing each member's name were inserted into the capsules. The capsules were then placed in the box. The capsules were mixed in the box.

Selections made by the Senate Clerk and read by the President are as follows:

Senators Leeper, Pendleton, Scorsone, Seum, Neal, Ridley, Rhoads, Guthrie, and Stivers.

Senator Seum asked to be excused. Agreed.

The President instructed the Senate Clerk to draw a name to replace Senator Seum. Senator Harris's name was drawn.

The Oath of Office for the Election Contest Board was administered by President Williams.

Recess

Senator Kelly moved to recess the Senate for five minutes for a Committee on Committees meeting at the Clerk's desk. Agreed.

The President called the Senate to order.

Report of Committees (cont.)

The Committee on Committees reported the following were appointed to the Election Contest Board:

Senators Leeper, Pendleton, Scorsone, Neal, Ridley, Rhoads, Guthrie, Stivers, and Harris.

Adjournment

Senator Kelly moved to adjourn the Senate until 11:00 a.m., Wednesday, January 5, 2005. Agreed.

WEDNESDAY, JANUARY 5, 2005
SECOND LEGISLATIVE DAY

The Senate was called to order by President Williams.

Prayer by Father Pat Stewart, Good Shepherd Catholic Church, Frankfort.

The Pledge of Allegiance to the Flag was given.

The roll was called. All senators were present except Senator Tori.

Senator Kelly moved to grant leave to the absent senator. Agreed.

Senator Kelly moved to approve the Journal of Tuesday, January 4, 2005. Agreed.

Motions, Petitions and Communications

The President Pro Tem assumed the chair.

Senator Kelly asked that the Interim Joint Committee Reports be made at this time.

The following Interim Joint Committees reported:

Agriculture and Natural Resources, by Senator Harris
Appropriations and Revenue, by Senator Sanders
Economic Development, Tourism, and Labor, by Senator Thayer
Education, by Senator Westwood
Health and Welfare, by Senator Buford
Banking and Insurance, by Senator Buford

Introduction of New Bills and Resolutions

SB 29, AN ACT relating to social work, by Senators McGaha and Tapp.

SB 30, AN ACT proposing an amendment to Section 247 of the Constitution of Kentucky relating to public printing, by Senator Tapp.

SB 31, AN ACT relating to tax credits for biodiesel, by Senator Tapp.

SB 32, AN ACT relating to changing the classification of the City of Warsaw, in Gallatin County, by Senator Roeding.

SB 33, AN ACT relating to unemployment insurance, by Senator Pendleton.

SB 34, AN ACT relating to military pensions, by Senator Pendleton.

SB 35, AN ACT relating to an income tax credit for teachers who purchase classroom supplies for students' use, by Senator Tapp.

SB 36, AN ACT relating to reorganization, by Senator Kelly.

SB 37, AN ACT relating to reorganization, by Senator Kelly.

SB 38, AN ACT relating to reorganization, by Senator Kelly.

SB 39, AN ACT relating to reorganization, by Senator Kelly.

SB 40, AN ACT relating to reorganization, by Senator Kelly.

SB 41, AN ACT relating to reorganization, by Senator Kelly.

SB 42, AN ACT relating to reorganization, by Senator Kelly.

SB 43, AN ACT relating to reorganization, by Senator Kelly.

SB 44, AN ACT relating to reorganization, by Senator Kelly.

SB 45, AN ACT relating to reorganization, by Senator Kelly.

SB 46, AN ACT relating to reorganization, by Senator Kelly.

SB 47, AN ACT relating to reorganization, by Senator Kelly.

SJR 12, A JOINT RESOLUTION relating to the designation of Shelby County as the American Saddlebred Horse Capital of the World, by Senator Tapp.

SR 13, A RESOLUTION adjourning the Senate in honor of the Home Builders Association of Northern Kentucky upon the occasion of their 50th anniversary, by Senators Roeding, Stine, Thayer, Westwood, and Harris.

SR 14, A RESOLUTION adjourning the Senate in loving memory and honor of Lance Corporal Sean M. Langley, by Senator Kerr.

SJR 15, A JOINT RESOLUTION naming the "Ronald Reagan Memorial Parkway" in Lewis County, by Senator Borders.

SR 16, A RESOLUTION honoring Mayor Waymond Morris on the occasion of his retirement from the Office of Mayor of Owensboro, Kentucky, by Senators Boswell, Williams, Ridley, Neal, Turner, Rhoads, Shaughnessy, Pendleton, Mongiardo, Winters, and Leeper.

SR 17, A RESOLUTION adjourning the Senate in loving memory and honor of Sergeant James W. Harlan, by Senators Boswell, Seum, Harper-Angel, Pendleton, Mongiardo, Winters, Leeper, Shaughnessy, Rhoads, and Worley.

SR 18, A RESOLUTION adjourning the Senate in loving memory and honor of Staff Sergeant George S. Rentschler, by Senator Seum.

SR 19, A RESOLUTION adjourning the Senate in loving memory and honor of Carl J. Ruh, by Senators Roeding and Westwood.

SR 20, A RESOLUTION adjourning the Senate in loving memory and honor of Sergeant Christopher T. Heflin, by Senator Leeper.

Motions, Petitions and Communications (cont.)

Senator Carroll moved to be shown as a co-sponsor of **SB 14**. Agreed.

Senator Roeding moved to be shown as a co-sponsor of **SB 12**. Agreed.

Senator Roeding moved to be shown as a co-sponsor of **SB 4**. Agreed.

The Interim Joint Committee Report on Labor was given by Senator Kerr.

Recess

Senator Kelly moved to recess the Senate for fifteen minutes for a Committee on Committees meeting at the Clerk's desk. Agreed.

The President Pro Tem called the Senate to order.

Motions, Petitions and Communications (cont.)

Senator Pendleton moved to be shown as a co-sponsor of **SB 5**. Agreed.

Senator Pendleton moved to be shown as a co-sponsor of **SB 12**. Agreed.

Senator Turner moved to be shown as a co-sponsor of **SB 5**. Agreed.

Senator Blevins moved to be shown as a co-sponsor of **SB 12**. Agreed.

Senator Kelly moved to withdraw **SB 36**. Agreed.

Senator Harper-Angel moved to be shown as a co-sponsor of **SB 12**. Agreed.

Senator Harper-Angel moved to be shown as a co-sponsor of **SB 14**. Agreed.

Senator Harper-Angel moved to be shown as a co-sponsor of **SB 28**. Agreed.

Senator Harper-Angel moved to be shown as a co-sponsor of **SB 3**. Agreed.

Senator Westwood moved to be shown as a co-sponsor of **SB 5**. Agreed.

Senator Seum moved to be shown as a co-sponsor of **SB 5**. Agreed.

Senator Winters moved to be shown as a co-sponsor of **SB 5**. Agreed.

Introduction of New Bills and Resolutions (cont.)

SB 48, AN ACT relating to the annexation of land served by a sanitation district, by Senator Harris.

SR 21, A RESOLUTION adjourning the Senate in loving memory and honor of Corporal Nicholas J. Dieruf, by Senator Buford.

Adjournment

Senator Kelly moved to adjourn the Senate until 11:00 a.m., January 6, 2005. Agreed.

THURSDAY, JANUARY 6, 2005

THIRD LEGISLATIVE DAY

The Senate was called to order by President Williams.

Prayer by the Reverend Chuck Ellestad, Church of the Ascension, Frankfort.

The Pledge of Allegiance to the Flag was given.

The roll was called. All senators were present.

Senator Kelly moved to approve the Journal of Wednesday, January 5, 2005. Agreed.

Motions, Petitions and Communications

The President Pro Tem assumed the chair.

Senator Kelly asked that Interim Joint Committee Reports be made at this time.

The following Interim Joint Committees reported:

Licensing and Occupations, by Senator Tapp

Local Government, by Senator Kerr

Senator Thayer presented Senate Citation No. 1 and moved its adoption. Agreed.

To All To Whom These Presents Shall Come, Greetings: Know ye that Billie Travis is welcomed to the Senate Chambers during a day in the 2005 Regular Session of the Kentucky General Assembly to be honored upon being named the 2005 Kentucky Teacher of the Year as part of the Teacher Achievement Awards program sponsored by Ashland Inc., in conjunction with the Kentucky Department of Education and the Governor's Office. Given to those educators who best embody the qualities necessary to prepare Kentucky's young people to become the future leaders of this Commonwealth and Nation, this distinguished honor reflects the many lasting contributions Ms. Travis has made during twenty-four years of service in the field of education and affords her the opportunity to both represent the Commonwealth of Kentucky in the national competition and to meet President George W. Bush as part of a special ceremony. Inasmuch as this esteemed honoree, a beloved educator at Georgetown Middle School, has provided superior academic instruction and invaluable stewardship to her students, she is extended best wishes for ongoing success as she continues to shape the lives of the youth entrusted to her care; and, on the motion of Senator Damon Thayer is hereby deemed by this honorable body most worthy of its recognition.

Done in Frankfort, Kentucky, this sixth day of January, in the year two thousand and five.

The following Interim Joint Committee reported:

Seniors, Veterans, Military Affairs, and Public Protection, by Senator Seum

Introduction of New Bills and Resolutions

SR 24, A RESOLUTION honoring Ms. Louise Summers, Director of the Montgomery County Community Education program, on being elected president of the National Community Education Association, by Senator Palmer.

Motions, Petitions and Communications (cont.)

Senator Palmer moved to adopt **SR 24**. Agreed.

SR 24 is as follows:

SR 24, A RESOLUTION honoring Ms. Louise Summers, Director of the Montgomery County Community Education program, on being elected president of the National Community Education Association.

WHEREAS, community education provides an opportunity for local residents and community agencies and institutions to become partners in providing educational opportunities for persons of all ages; and

WHEREAS, community education provides an opportunity for local residents and community agencies and institutions to become partners in addressing community concerns; and

WHEREAS, Ms. Louise Summers currently serves as Director of the Montgomery County Community Education program; and

WHEREAS, Ms. Summers provides outreach services by conducting, assessing, and evaluating community programs; and

WHEREAS, Ms. Summers has served as a national presenter and as a regional director for the National Community Education Association; and

WHEREAS, Ms. Summers has served as president of the Kentucky Community Education Association; and

WHEREAS, Ms. Summers has recently been elected to serve as president of the National Community Education Association for 2005; and

WHEREAS, as association president, Ms. Summers will promote community education at the national and international levels; and

WHEREAS, as association president, Ms. Summers will have a significant role in shaping the future of community education;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hereby offers congratulations to Ms. Louise Summers on being elected National Community Education Association president for 2005.

Section 2. The Senate adjourns this day in honor of Ms. Louise Summers.

Section 3. The Clerk of the Senate shall forward a copy of this Resolution to Ms. Louise Summers, Director, Montgomery County Community Education, Montgomery County Schools, 212 North Maysville Street, Mt. Sterling, Kentucky 40353.

Section 4. The Clerk of the Senate shall forward a copy of this Resolution to Mr. Daniel Freeman, Superintendent, Montgomery County Schools, 212 North Maysville Street, Mt. Sterling, Kentucky 40353.

The following Interim Joint Committees reported:

Judiciary, by Senator Seum

State Government, by Senator Kerr

Transportation, by Senator Leeper

Introduction of New Bills and Resolutions (cont.)

SB 49, AN ACT relating to reorganization, by Senator Kelly.

SB 50, AN ACT relating to veterans' affairs, by Senators Ridley, Buford, Pendleton, Turner, Mongiardo, Carroll, Rhoads, Palmer, Scorsone, Harper-Angel, Blevins, Harris, Boswell, Neal, Worley, Jones, Shaughnessy, Guthrie, Seum, Tori, and Leeper.

SB 51, AN ACT relating to public printing, by Senator Tapp.

SB 52, AN ACT relating to the Transportation Cabinet, by Senator Leeper.

SR 22, A RESOLUTION adjourning the Senate in loving memory and honor of Guy Mattison Davenport, Jr., by Senator Scorsone.

SCR 23, A CONCURRENT RESOLUTION adjourning the 2005 Regular Session of the General Assembly until February 1, 2005, by Senator Williams.

SR 25, A RESOLUTION adjourning the Senate in loving memory and honor of Lieutenant Robert L. Henderson II, by Senators Guthrie and Sanders.

SR 26, A RESOLUTION adjourning the Senate in loving memory and honor of Georgia Boxley Ensminger, by Senator Harris.

SR 27, A RESOLUTION adjourning the Senate in loving memory and honor of Marion Alexander "Chunk" Caywood, by Senator Harris.

SR 28, A RESOLUTION offering condolences to the family of Quinn Callahan Dunn, by Senator Harris.

SR 29, A RESOLUTION adjourning the Senate in loving memory and honor of Janie Ruth Gilliam Clore, by Senator Harris.

SR 30, A RESOLUTION requesting that the Commonwealth of Kentucky's Congressional Delegation support the President's call for medical malpractice reform, by Senator Roeding.

SR 31, A RESOLUTION adjourning the Senate in loving memory and honor of Lance Corporal DeShon E. Otey, by Senator Tori.

Recess

Senator Kelly moved to recess the Senate for two minutes for a Committee on Committees meeting at the Clerk's desk. Agreed.

The President Pro Tem called the Senate to order.

Reference of Bills and Resolutions

The Clerk reported the following resolutions had been referred by the Committee on Committees:

To Senate Floor: **SR 5, SR 7, SR 8, SR 9, SR 10, SR 11, SR 13, SR 14, SR 16, SR 17, SR 18, SR 19, SR 20, SR 21, SR 24**

Recess

Senator Kelly moved to recess the Senate for two minutes for a Committee on Committees meeting at the Clerk's desk. Agreed.

The President Pro Tem called the Senate to order.

Reference of Bills and Resolutions

The Clerk reported the following resolution had been referred by the Committee on Committees:

To Senate Floor: **SCR 23**

Motions, Petitions and Communications (cont.)

Senator Kelly moved to adopt **SCR 23**. Agreed.

SCR 23 is as follows:

SCR 23, A CONCURRENT RESOLUTION adjourning the 2005 Regular Session of the General Assembly until February 1, 2005.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. When the Senate and the House of Representatives adjourn on January 7, 2005, they do adjourn until February 1, 2005, when they shall convene for the second part of the 2005 Regular Session of the General Assembly.

Senator Blevins moved to be shown as a co-sponsor of **SB 5**. Agreed.

The President resumed the chair.

Senator Roeding moved to adopt **SR 13**. Agreed.

SR 13 is as follows:

SR 13, A RESOLUTION adjourning the Senate in honor of the Home Builders Association of Northern Kentucky upon the occasion of their 50th anniversary.

WHEREAS, the Home Builders Association of Northern Kentucky was founded in 1955; it is a trade association affiliated with the Home Builders Association of Kentucky and the National Association of Home Builders, representing businesses and firms from all aspects of the building industry; and

WHEREAS, the Home Builders Association of Northern Kentucky benefits the Northern Kentucky community by promoting cost effective housing and other structures appurtenant to a community; by providing industry information and education to the membership and the public; by being the recognized authority and respected community and business leader on industry standards and related business issues; and by enhancing the visibility and establishing the credibility of the members as the professionals of their related businesses; and their goal is to promote and support responsible growth in order to maintain a positive economic future for the communities served; and

WHEREAS, since its inception, the Home Builders Association of Northern Kentucky recognized the importance of change, and the Association works with area governments and agencies to make sure that the infrastructure and amenities grow proportionately to the certain increase in population and quality of life; and the Association has had a long term commitment in recognizing the importance of electing state officials that understand the growth in their community and their willingness to represent the Northern Kentucky citizens with pride and honor as they demonstrate the effectiveness legislation can have on their community; and

WHEREAS, the Home Builders Association of Northern Kentucky has represented its community with dedication, professionalism, and high standards, and the Association's vision and leadership has brought light and inspiration to so many lives in the Northern Kentucky community; and

WHEREAS, on January 8, 2005, the Home Builders Association of Northern Kentucky will be celebrating its 50th anniversary at the Marriott Airport Hotel in Hebron, with a social hour, dinner, and program;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby applaud and congratulate the Home Builders Association of Northern Kentucky for 50 years of faithful service to the citizens of the Northern Kentucky community. We wish success to the Home Builders Association of Northern Kentucky in all future endeavors.

Section 2. When the Senate adjourns this day, it does so in honor of the Home Builders Association of Northern Kentucky.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to the Home Builders Association of Northern Kentucky, 209 Grandview Drive, Ft. Mitchell, Kentucky 41017.

Senator Thayer moved to be shown as a co-sponsor of **SB 16**. Agreed.

Senator Thayer moved to be shown as a co-sponsor of **SB 19**. Agreed.

Senator Thayer moved to be shown as a co-sponsor of **SR 6**. Agreed.

Recess

Senator Kelly moved to recess the Senate until 5:00 p.m. after which the floor would remain open for receiving reports from the Election Contest Board. Agreed.

The President Pro Tem called the Senate to order.

Report of Committees

The Election Contest Board has met and reported the Report of Determination of the Kentucky State Senate Election Contest Board, signed by Senators Neal, Scorsone, Pendleton, Rhoads, and Ridley, as follows:

Report of Determination of the Kentucky State Senate Election Contest Board

January 6, 2005 Chair: Senator Gerald Neal

The following members favor adoption of this determination signed January 6, 2005:

/S/ Senator Gerald Neal
/S/ Senator Joey Pendleton
/S/ Senator Ridley
/S/ Senator Scorsone
/S/ Senator Rhoads

SUMMARY

The Elections Contest Board was established on January 4, 2005, to consider the election contest filed on December 7, 2004, by Dana Seum Stephenson. The contest asks that "Virginia Woodward must be rejected and Stephenson seated" in the Kentucky Senate.

Findings of fact included in this determination are based on court rulings, sworn testimony and depositions, argument from counsel and a review of relevant laws.

As specified in the rules governing the Contest Board, this determination was adopted by a quorum of the members of the Board and duly signed by each member voting for its adoption.

The Board's findings include:

Kentucky Senators are sworn to uphold the Kentucky Constitution. It is imperative that each individual Senator, and the Senate as a whole, honor Kentucky law.

The Kentucky Constitution, Section 32, requires that candidates for the Kentucky Senate live in the Commonwealth for the previous six years before the election.

On November 22, 2004, Jefferson Circuit Court Judge Barry Willett ruled the contestant, Stephenson, did not meet the Constitutional residency requirements to hold the office of State Senator. The Board notes that Stephenson testified before Judge Willett that she was a resident of Indiana from 1997 to 2001. Furthermore, she relinquished her Kentucky residency by registering and voting in Indiana in 1998 and 2000.

The Kentucky General Assembly, under KRS Chapter 118, delegated to the courts the power to decide election challenges made before an election. Virginia Woodward filed suit on November 1, challenging Stephenson's qualifications. This is a pre-election challenge. Refusing to recognize it as such by seating Stephenson infringes upon the authority of a co-equal branch of government, undermines the separation of powers and runs the risk of compromising the integrity of the Kentucky State Senate.

Judge Willett's ruling was not appealed and is final. Judge Willett ordered that only votes cast for Woodward could be counted in the November 2 election.

The seating of an unqualified candidate, as determined by the Court, would be an exercise of arbitrary power.

Based upon these findings and others in this determination, the Board finds:

The election contest filed by Stephenson is without merit in that in her Notice, she made no allegations, nor did she offer any proof, relating to the Corrupt Practices Act.

The Senate must accept the December 28, 2004, certification of Woodward by the State Board of Elections as the winner of the 37th District race and seat her in compliance with the final order of the Jefferson Circuit Court.

BACKGROUND

Dana Seum Stephenson was the Republican nominee for the 37th District State Senate seat in the November 2, 2004, general election. Virginia Woodward was the Democratic nominee.

On Monday, November 1, 2004, Woodward filed a pre-election motion to disqualify Stephenson as a candidate for the referenced Senate seat, pursuant to KRS 118.176.

On November 3, 2004, the Jefferson Circuit Court held an evidentiary hearing and permitted the parties to submit post-hearing and reply briefs. At the hearing, Senate President David Williams intervened in his capacity as Senate President and submitted briefs for the court's consideration.

On November 22, 2004, following the hearing and submission of briefs, Jefferson Circuit Court Judge Barry Willett issued a final and appealable order. The Court held that:

The General Assembly has delegated jurisdiction to the courts to decide pre-election challenges to a candidate's qualifications under KRS 118.176.

Woodward timely filed her motion.

Stephenson was not a bona fide candidate for the office of State Senate from the 37th District because she had not met the six-year residency requirement of the Kentucky Constitution.

Several facts were established during the Court action to support its conclusion that Stephenson had instead resided in Indiana from 1997 to May 2001, including:

Stephenson voted in the Indiana 1998 election.

Stephenson voted in the Indiana 2000 primary election and general election.

Stephenson obtained an Indiana driver's license in 1997, listing Jeffersonville, Indiana, as her residence.

Stephenson did not have a Kentucky driver's license from 1997 to October, 2001.

Stephenson's name was purged from the Kentucky voter rolls on February 19, 1998, for failure to vote in the two prior federal elections in Kentucky.

Stephenson did not re-register to vote in Kentucky until 2001, after she had moved from Indiana to Kentucky.

Stephenson and her husband purchased a home located in Jeffersonville, Indiana, to use as their residence until May 2001.

Stephenson moved to Kentucky in May 2001.

Based upon the undisputed evidence and legal findings, the Court granted Woodward's motion and ordered the Jefferson County Board of Elections not to count votes cast for Stephenson. No party appealed the court's decision.

On November 23, 2004, the Jefferson County Board of Elections certified the vote totals for the 37th District and sent the returns to the Secretary of State in accordance with KRS 118.425. Pursuant to the Court's Order, the county board only counted and certified the votes for Woodward (21,750) and did not count or certify any votes for Stephenson.

On December 7, 2004, Stephenson filed a Notice of Application to Contest the Election for the 37th Senatorial District in direct contradiction to the Jefferson Circuit Court's Order.

On December 13, 2004, the State Board of Elections tabled a vote on the certification of the 37th District race.

On December 21, 2004, the Court granted Woodward's motion to order Secretary of State Trey Grayson and the State Board of Elections to meet and certify the election for the 37th District State Senate seat.

On December 27, 2004, Woodward filed with the Senate Clerk a Petition to Dismiss Stephenson's Notice of Application to Contest in the election at issue.

On December 28, 2004, the State Board of Elections met and certified Woodward as winner of the 37th District election. Secretary of State Trey Grayson confirmed the issuance of a certificate of election by the state Board of Elections, certifying Virginia Woodward to the 37th District Senate Seat.

On January 1, 2005, Woodward was sworn in as Senator of the 37th District by the Honorable Judge Stephen P. Ryan of the Jefferson Circuit Court.

On January 4, 2005, the Kentucky General Assembly convened the 2005 Regular Session. Newly elected members of the Senate took the oath of office, including Woodward. In light of the pending challenge to the acceptance of certification for Woodward, Senate Majority Floor Leader Dan Kelly moved that all elected Senators be seated as members of the Senate, except for Woodward. The motion carried by a voice vote over significant objections.

On that same day, a nine-member Election Contest Board was selected at random, pursuant to statute, and subsequently sworn in by President Williams. The random selection process and the requirement for impartiality of Board members, as required under law, are designed to remove individual and partisan motives, to the extent possible in a partisan body, as the board executes its charge to "determine the contest." KRS 120.215. Senator Gerald Neal was selected by the Board to serve as its Chairman. Other members are Senators Brett Guthrie, Ernie Harris, Bob Leeper, Joey Pendleton, Jerry Rhoads, Dorsey Ridley, Ernesto Scorsone and Robert Stivers.

CONTEST BOARD ACTION

After their selection on January 4, 2005, members of the Contest Board met on January 4, 5 and 6, 2005.

The following evidence was reviewed by the Board:

Deposition of Stephenson (read to by the Clerk's Office, and copied transcript).

Videotape of the Jefferson Circuit Court hearing held November 3, 2004.

Oral presentations by counsel for both Woodward and Stephenson, with follow-up questioning by the Board.

Pleadings in Jefferson Circuit case.

Opinion by Jefferson Circuit Court.

November 22, 2004, election certifications of the State Board of Elections.

Minutes of the December 13, 2004, meeting of the State Board of Elections.

December 21, 2004, Franklin Circuit Court Order.

December 28, 2004, election certifications of the State Board of Elections.

Documentation of administration of oath to Woodward of January 1, 2005.

Video of Senate Proceedings from January 4, 2005.

Senate Journal from January 4, 2005.

Relevant sections of the Kentucky Constitution.

Relevant case law and legislative history.

FINDINGS OF FACT

After reviewing the record and testimony, the Board makes the following findings of fact:

The Jefferson Circuit Court, in Case No. 04-CI-09261, ruled that:

The General Assembly has delegated jurisdiction to the courts to decide pre-election challenges to a candidate's qualifications under KRS 118.176.

Woodward timely filed her motion.

The Kentucky constitutional residency requirement complies with the federal Constitution.

Stephenson was not a bona fide candidate for the office of State Senate from the 37th District because she has not met the six-year residency requirement of the Kentucky Constitution.

2. The Jefferson Circuit Court ruling was not appealed by any of the parties and is final.

3. The Board confirms the facts established during the Court action, including:

Stephenson testified that she was a resident of Indiana from 1997 to 2001.

Stephenson voted in the Indiana 1998 election.

Stephenson voted in the Indiana 2000 primary election and general election.

Stephenson had obtained an Indiana driver's license in 1997, listing Jeffersonville, Indiana as her residence.

Stephenson did not have a Kentucky driver's license from 1997 to October 2001.

Stephenson's name was purged from the Kentucky voter rolls on February 19, 1998, for failure to vote in the two prior federal elections in Kentucky.

Stephenson did not re-register to vote in Kentucky until 2001, after she had moved from Indiana to Kentucky.

Stephenson and her husband purchased a home located in Jeffersonville, Indiana, to use as their residence until May 2001.

Stephenson was not a resident of Kentucky for the next preceding six years prior to the November 2, 2004, election.

Stephenson filed Indiana state income tax returns for the years 1998, 1999 and 2000.

The Jefferson County Board of elections certified Woodward as the winner of the 37th Senatorial District. It certified 0 votes for Stephenson.

The State Board of Elections certified the 37th District election for Woodward.

Woodward was duly sworn as a Senator in Kentucky for the 37th District on January 1, 2005, by the Hon. Stephen P. Ryan, Judge, Jefferson Circuit Court.

Woodward entered the Senate chamber on January 4, 2004, at the commencement of the 2005 Regular Session, wherein she was administered an additional oath of office, along with the other Senators elected on November 2, 2004.

Stephenson's Notice of Application to Contest raised the same arguments she lost in the unappealed Jefferson Circuit Court action. In her Notice, she made no allegations, nor did she offer any proof, relating to the Corrupt Practices Act.

FINDINGS OF LAW

Delegation by General Assembly to Courts to Decide Pre-election Qualifications of Candidate

The General Assembly, with constitutional power to judge the qualifications of its members, delegated jurisdiction to the judicial branch to resolve pre-election challenges about the qualifications of a candidate by enacting KRS 118.176.

We concur with the Jefferson Circuit Court's decision that it had the authority to determine whether Stephenson was a bona fide candidate and that the challenge was timely filed.

The Jefferson Circuit Court found that Stephenson was not a bona fide candidate for the office of State Senate because she did not meet the six-year residency requirement of the State Constitution and ordered that Woodward be declared the "de facto" winner and be certified. Stephenson did not appeal these findings even though KRS 118.176 provides for an appeal.

The Board is of the opinion that the Senate should honor the findings and order of the Court. Refusing to recognize the ruling as such infringes upon the authority of a co-equal branch of government, undermines the separation of powers and runs the risk of compromising the integrity of the Kentucky State Senate. The seating of an unqualified candidate, as determined by the Court, would be an exercise of arbitrary power.

Stephenson's Residency

The Board finds overwhelming evidence that Stephenson failed to meet the Constitutional residency requirements and was not a bona fide candidate for the Senate and therefore, concurs with the Jefferson Circuit Court's Order.

The Kentucky Constitutional residency requirement states: "No person shall be a Senator who, at the time of his election, is not a citizen of Kentucky, has not attained the age of thirty years, and has not resided in this State six years next preceding his election, and the last year thereof in the district for which he may be chosen." Section 32.

Among the several facts established before this Board are the following:

Stephenson voted in the Indiana 1998 election.

Stephenson voted in the Indiana 2000 primary election and general election.

Stephenson had obtained an Indiana driver's license in 1997, listing Jeffersonville, Indiana as her residence.

Stephenson did not have a Kentucky driver's license from 1997 to October 2001.

Stephenson's name was purged from the Kentucky voter rolls on February 19, 1998, for failure to vote in the two prior federal elections in Kentucky.

Stephenson did not re-register to vote in Kentucky until 2001, after she had moved from Indiana to Kentucky.

Stephenson and her husband purchased a home in late 1996 located in Jeffersonville, Indiana, to use as their residence until May 2001.

Stephenson was not a resident of Kentucky for six years prior to the November 2, 2004, election.

Stephenson filed Indiana state income tax returns for the years 1998, 1999 and 2000.

The Jefferson Circuit Court cited the factors listed above, applying the Kentucky Supreme Court precedent found in Mobley v. Armstrong, Ky., 978 S.W.2d 307 (1998), in finding in favor of Woodward.

Further, the Board concurs with the Court's finding that Stephenson's arguments equating "resident" and "reside" with "legal domicile" unpersuasive in light of Mobley.

The Board also finds KRS 116.035 persuasive in supporting the position that Stephenson clearly forfeited her Kentucky residency when she voted in Indiana between 1998 and

2000. Section (3) states: "A voter shall lose his or her residence by removal to another state or county with intention to make his or her permanent residence there, or by removal to and residence in another state, with intention to reside there an indefinite time, or by voting there, even though he or she may have had the intention to return to this state at some future period."

DETERMINATION

Therefore, pursuant to KRS 120.215, and based upon the foregoing the Board determines:

The Board finds that the election contest filed by Dana Seum Stephenson is without merit. She fails to meet the six-year residency requirement of the Kentucky Constitution.

Virginia Woodward is the duly certified and duly elected winner of the Senate contest in the 37th District and, therefore, the Senate must seat her in compliance with the final order of the Jefferson Circuit Court.

This report constitutes the Board's final determination.

The following members favor adoption of this determination signed January 6, 2005:

/S/ Senator Gerald Neal

/S/ Senator Joey Pendleton

/S/ Senator Ridley

/S/ Senator Scorsone

/S/ Senator Rhoads

Report No. 2 of the Election Contest Board, signed by Senators Guthrie, Harris, and Stivers, was reported as follows:

WHEREAS, a contest of election has been properly filed by Dana Seum Stephenson and accepted for review and final disposition by the Kentucky State Senate concerning the results of an election of a senator to represent the citizens of the 37th State Senatorial District; and

WHEREAS, under authority of Rule 49 of the Kentucky State Senate, the members of this election contest board whose signatures are affixed hereto respectfully file this report for consideration by the full Senate; and

WHEREAS, the jurisdiction of the Kentucky State Senate over the contested election is hereby declared and reaffirmed and it is recognized that Section 38 of the Kentucky Constitution vests power in the General Assembly that each House "shall judge of the qualifications, elections and returns of its members"; and

WHEREAS, delegation of pre-election authority to determine whether a candidate is qualified to have his or her name appear on a ballot is not a preemption or delegation of the ultimate and constitutional authority of the Senate to judge the qualifications, elections and returns of its members; particularly in a case such as this where the election has concluded and the choice of the citizens has been expressed;

NOW, THEREFORE, IT IS HEREBY REPORTED as follows:

A majority of the voters who cast their ballots in the November 2004 General Election for senator in the 37th State Senatorial District chose Dana Seum Stephenson to represent them in the Kentucky State Senate.

The election began either immediately after the certification of the candidates for the General Election, or at the latest on October 15, 2004 when early voting began pursuant to KRS 117.085(1)(c).

On or about 3:30 p.m. on November 1, 2004, the evening before the regular voting began, a complaint was filed in the Jefferson Circuit Court seeking relief as a pre-election contest.

No hearing was held or relief granted by the Jefferson Circuit Court until after the conclusion of the election wherein a majority of the citizens of the 37th State Senatorial District expressed their choice of Dana Seum Stephenson to represent them in the Kentucky State Senate.

On November 22, 2004 the Jefferson Circuit Court ordered the Jefferson County Board of Elections to not report the votes of the citizens who cast ballots for Dana Seum Stephenson to the Kentucky State Board of Elections based upon the Court's conclusion that Dana Seum Stephenson was not a qualified candidate under Section 32 of the Kentucky Constitution.

Section 32 provides that, " No person shall be a Senator who, at the time of his election, is not a citizen of Kentucky and has not resided in Kentucky six (6) years next preceding his election."

There is no question regarding Dana Seum Stephenson's qualification as a citizen of Kentucky "at the time of the election."

The issue regarding Dana Seum Stephenson is whether she has "resided in Kentucky six years preceding the election."

Since Section 32 uses both the term "citizen of Kentucky" at the time of election and "has resided in Kentucky" when referring to the six (6) years next prior to the election, it must be presumed that each word represents two separate standards.

It is the finding of this report that the term citizenship refers to what is customarily referred to as domicile or legal residence including specifically the jurisdiction in which one is legally eligible to vote.

The term "has resided" is a more subjective standard.

According to Black's Law Dictionary, "residence" is where "one has a residence" and "to reside" is "where one actually lives as an inhabitant in a given place; Black's Law Dictionary further provides a person may have more than one residence.

Therefore the question is whether or not in this case, during the six (6) years immediately prior to the election of November 2, 2004, did the candidate, Dana Seum Stephenson own a residence in Kentucky in which she actually lived.

The evidence before the contest board regarding these are two issues is first, that; in 1995, Dana Seum Stephenson purchased and continually owned a residence at 7628 Manslick Road, Louisville Kentucky, the residence in which she now lives.

Second, that Dana Seum Stephenson actually lived in and inhabited her residence in Kentucky on a regular and continuous basis as follows:

On a typical day for the past ten years Dana Seum Stephenson reported to work as a math teacher at Pleasure Ridge Park High School in Louisville, Jefferson County Kentucky at 7:15 a.m. and taught her regular load of classes, after which she would provide extended school services until 5:00 p.m.

Dana Seum Stephenson would go to her Kentucky residence on Manslick Road and nap until she returned to her coaching duties a Pleasure Ridge Park High School until late in the evening.

On those nights that she remained at school late, she would often spend the night at her Kentucky residence.

On Saturdays, Dana Seum Stephenson would participate in other after school activities including ACT test preparation for Pleasure Ridge Park High School students.

On Sundays, Dana Seum Stephenson attended church in Louisville, Jefferson County, Kentucky.

On vacations and holidays she and her husband and step children would often stay at her Kentucky residence because it had a swimming pool.

This issue arose because during a two and one-half (2½) year period prior to May 2001, Dana Seum Stephenson and her new husband purchased a house in Jeffersonville, Indiana.

When Dana Seum Stephenson was not in her Kentucky residence, and particularly when she attended night school at Indiana University Southeast, working to earn her Rank One Master's Degree as required by Kentucky law, she lived in her Indiana residence.

Much controversy in this case centers around the fact that in the two and one-half (2½) year period prior to May 2001, Dana Seum Stephenson had many of the indications of a legal resident or citizen of Indiana, including licensing her vehicle in Indiana and voting as a citizen of Indiana.

However, as previously stated, under Section 32 Dana Seum Stephenson was only required to be a "citizen of Kentucky" at the time of her election.

The fact that she resided in or was a legal resident of Indiana does not preclude her from being found to have "resided" in Kentucky during the same time she resided in Indiana.

Clearly from the evidence before the board we can conclude that Dana Seum Stephenson was a citizen of Kentucky at the time of her election.

Dana Seum Stephenson was both a citizen and a resident for three and one-half (3½) years prior to her election and during the two and one-half (2½) year period prior to May 2001 when she owned a residence in Indiana she also owned a residence in Kentucky and continuously resided in Kentucky.

Because a Circuit Court has reviewed this same evidence and reached a different conclusion regarding this issue the Senate should carefully consider whether for purposes of comity, in other words, respect for the judiciary, it should defer to the Court and not reach a different conclusion than the Court.

However, there is a more important issue than the issue of comity between two separate branches of government, and that is respect for the choice of the voters of the 37th State Senatorial District.

It is the opinion of those adopting this report that in a case where the voters have clearly exercised their fundamental right to choose their representative in a free and fair election, that the choice by the voters should not be casually set aside without compelling reason.

In this case the practical reality is that Dana Seum Stephenson has more contact and experience with the state of Kentucky, its citizens and laws than most who seek to be a senator.

Dana Seum Stephenson was born in Kentucky and lived in her district, where she obtained her primary and secondary education.

Since receiving her teaching degree from an institution of a neighboring state, she has lived, worked, worshiped and served in Kentucky and her district, including the time in which she owned a residence in Indiana while both pursuing her Master's Degree at Indiana University Southeast and working day and night as a teacher at a public high school within her district.

THEREFORE, it is the opinion of the members of the Election Contest Board who have affixed their signatures to this report that the Senate find that Dana Seum Stephenson, the person chosen by the voters of the 37th State Senatorial District is legally qualified to be seated as a member of the Kentucky State Senate and serve for the term of office to which she has been elected.

The following members of the Election Contest Board, having dissented from the report filed by five (5) members of the Election Contest Board, respectfully submit to the full Senate for its further action and favor adoption of the foregoing findings and conclusions.

Signed, January 6, 2005

/S/ Senator Brett Guthrie

/S/ Senator Ernie Harris

/S/ Senator Robert Stivers

Election Contest Board Report No. 3, signed by Senator Leeper, was reported as follows:

WHEREAS, a contest of election has been properly filed by Dana Seum Stephenson and accepted for review and final disposition by the Kentucky State Senate concerning the results of an election of a senator to represent the citizens of the 37th State Senatorial District; and

WHEREAS, under authority of Rule 49 of the Kentucky State Senate, the members of this election contest board whose signatures are affixed hereto respectfully file this report for consideration by the full Senate; and

WHEREAS, the jurisdiction of the Kentucky State Senate over the contested election is hereby declared and reaffirmed and it is recognized that Section 38 of the Kentucky Constitution vests power in the General Assembly that each House "shall judge of the qualifications, elections and returns of its members"; and

WHEREAS, delegation of pre-election authority to determine whether a candidate is qualified to have his or her name appear on a ballot is not a preemption or delegation of the ultimate and constitutional authority of the Senate to judge the qualifications, elections and returns of its members; particularly in a case such as this where the election has concluded and the choice of the citizens has been expressed;

NOW, THEREFORE, IT IS HEREBY REPORTED as follows:

1. A General Election was held for the 37th State Senatorial District seat on Nov 2nd, 2004 in which a majority of the voters cast their ballots for Dana Seum Stephenson to represent their district in the Kentucky State Senate.

2. Evidence presented to the aforementioned Election Contest Board has shown that under section 32 of the Kentucky state constitution Dana Seum Stephenson is Constitutionally unqualified to hold the office which she sought.

3. Precedent and good judgement dictates that, in a contested election where one candidate has been declared not qualified, the highest qualified vote-getter is not necessarily automatically awarded the office.

4. In confirmation of point 3, the Senate acted on January 4th, 2005 to deny the office of Senator from the 37th District to Virginia Woodward as reflected in the minutes of the Senate from that day.

5. Therefore, recognizing a vacancy has occurred in the 37th Senatorial district, the President of the Senate shall set a Special Election date as prescribed by KRS 118.730.

/S/ Senator Robert J. Leeper

Adjournment

Senator Kelly moved to adjourn the Senate until 10:00 a.m., January 7, 2005. Agreed.

FRIDAY, JANUARY 7, 2005

FOURTH LEGISLATIVE DAY

The Senate was called to order by President Williams.

Prayer by Dr. Gary Straub, First Christian Church, Frankfort.

The Pledge of Allegiance to the Flag was given.

The roll was called. All senators were present.

Senator Kelly moved to approve the Journal of Thursday, January 6, 2005. Agreed.

Motions, Petitions and Communications

Senator Kerr moved to adopt **SR 14**. Agreed.

SR 14 is as follows:

SR 14, A RESOLUTION adjourning the Senate in loving memory and honor of Lance Corporal Sean M. Langley.

With deepest respect and admiration, we pay homage and tribute to Lance Corporal Sean M. Langley, and we pause in silent reverence for his soul.

WHEREAS, Sean M. Langley was born on August 2, 1984, in Great Falls, Montana, and he traversed these earthly bounds on November 7, 2004; and

WHEREAS, Sean M. Langley was the loving son of William J. Langley and Patricia M. Langley, both of Lexington; and he also leaves behind: a caring brother, C. Matthew Langley; a stepbrother, John Hannon; a stepmother, Susan Langley; a grandfather, Robert Heinz; a grandmother, Maureen Young; a step-grandmother, Mary Hanson; and many other proud family members and friends; and

WHEREAS, Sean M. Langley moved to Lexington with his family in 1994; he attended Lexington Catholic High School and Henry Clay High School; at an early age, he learned the meaning of service through the example of his parents, both police officers, and was enthusiastic about joining the military; and

WHEREAS, Sean M. Langley enlisted in the Marines in September 2001; he was assigned to the 2nd Battalion, 5th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force based at Camp Pendleton, California; and

WHEREAS, after faithfully serving his first tour in Iraq in 2003, Lance Corporal Sean M. Langley was deployed for a second tour in Iraq, bravely supporting Operation Iraqi Freedom, where he performed his duties as a machine gunner; and

WHEREAS, the life of Lance Corporal Sean M. Langley ended prematurely in Al Anbar Province, Iraq, when he was mortally wounded during enemy action; and

WHEREAS, Lance Corporal Sean M. Langley valiantly served his country with honor and distinction; during his dedicated service as a Marine, he was awarded the Combat Action Ribbon, the National Defense Service Medal, the Global War on Terrorism Expeditionary Medal, and the Sea Service Deployment Ribbon; he was buried with full military honors; and

WHEREAS, Sean M. Langley was an extremely likeable young man who had a bright future before him; he had plans to continue public service after the military by pursuing a career in law enforcement; he attended the Blue Grass Baptist Church in Lexington; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Lance Corporal Sean M. Langley and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Lance Corporal Sean M. Langley has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Lance Corporal Sean M. Langley and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Lance Corporal Sean M. Langley.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to the mother of Lance Corporal Sean M. Langley, Ms. Patricia M. Langley, 3355 Sutherland Drive, Lexington, Kentucky 40517; and to the father and stepmother of Lance Corporal Sean M. Langley, Mr. and Mrs. William J. Langley, 3516B Creekwood Drive, Lexington, Kentucky 40502.

Recess

Senator Kelly moved to recess the Senate for five minutes for a Rules Committee meeting at the Clerk's desk. Agreed.

The President called the Senate to order.

Rules Committee

The Committee on Rules reported the Report of Determination of the Kentucky State Senate Election Contest Board, Report No. 2 of the Election Contest Board, and Election Contest Board Report No. 3. Placed in the Orders of the Day for Friday, January 7, 2005.

Orders of the Day

Senator Kelly moved to take the Report of Determination of the Kentucky State Senate Election Contest Board from the Orders of the Day. Agreed.

Senator Neal moved to adopt the Report of Determination of the Kentucky State Senate Election Contest Board.

Senator Jones rose to a point of order as to whether the Senate could reject the recommendation of the Election Contest Board.

The President ruled that KRS 120.215 and the Rules for the Board adopted by the Senate allow the Senate to review the Report of the Board and make a final determination.

The Report of Determination of the Kentucky State Senate Election Contest Board was defeated by a vote of Yeas - 15; Nays - 22.

(See January 7, 2005, roll call on Report of Determination of the Kentucky State Senate Election Contest Board, Appendix)

Senator Kelly moved to take Report No. 2 of the Election Contest Board from the Orders of the Day. Agreed.

Senator Stivers moved to adopt Report No. 2 of the Election Contest Board.

The President Pro Tem assumed the chair.

Senator Williams moved the previous question. Agreed.

Report No. 2 of the Election Contest Board was adopted by a vote of Yeas - 20; Nays - 16.

(See January 7, 2005, roll call on Report No. 2 of the Election Contest Board, Appendix)

Senator Leeper moved to take Election Contest Board Report No. 3 from the Orders of the Day.

Senator Kelly rose to a point of order as to whether Report No. 3 was out of order.

The President ruled that Election Contest Board Report No. 3 was out of order.

Introduction of New Bills and Resolutions

SB 53, AN ACT relating to government contracts, by Senator Tori.

SB 54, AN ACT relating to government contracts, by Senator Tori.

SB 55, AN ACT relating to the collection of delinquent taxes, by Senator Tori.

SB 56, AN ACT relating to drugs, by Senator Jensen.

SB 57, AN ACT relating to eggs, by Senator Jensen.

SB 58, AN ACT relating to sales and use tax, by Senator Buford.

SCR 32, A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study on the advisability of licensing physician assistants, by Senator Tapp.

SR 33, A RESOLUTION adjourning the Senate in loving memory and honor of Michael Bruce Zirnheld, by Senator Buford.

SJR 34, A JOINT RESOLUTION relating to organ and tissue donation, by Senator Sanders.

SR 35, A RESOLUTION recognizing Dana Seum Stephenson as the duly elected and qualified Senator of the Thirty-Seventh Senatorial District of Kentucky and seating Dana Seum Stephenson as the Senator of the Thirty-Seventh Senatorial District, by Senator Kelly.

SR 36, A RESOLUTION honoring the fortieth President of the United States, President Ronald Wilson Reagan, by Senators Thayer, Westwood, McGaha, Tori, Tapp, Stine, Roeding, and Denton.

SB 59, AN ACT relating to highways, by Senator Tapp.

SB 60, AN ACT relating to charter buses, by Senator Roeding.

SB 61, AN ACT relating to writing portfolios in the public schools, by Senator Roeding.

SB 62, AN ACT relating to facilities that do not receive Medicaid reimbursement, by Senator Ridley.

Recess

Senator Kelly moved to recess the Senate for three minutes for a Committee on Committees meeting at the Clerk's desk. Agreed.

The President called the Senate to order.

Reference of Bills and Resolutions

The Clerk reported the following resolution had been referred by the Committee on Committees:

To Senate Floor: **SR 35**

Motions, Petitions and Communications (cont.)

Senator Kelly moved to adopt **SR 35**. Agreed.

SR 35 is as follows:

SR 35, A RESOLUTION recognizing Dana Seum Stephenson as the duly elected and qualified Senator of the Thirty-Seventh Senatorial District of Kentucky and seating Dana Seum Stephenson as the Senator of the Thirty-Seventh Senatorial District.

WHEREAS, a contest of election was properly filed by Dana Seum Stephenson and accepted for review and final disposition by the Kentucky Senate, concerning the results of an election of a Senator to represent the citizens of the 37th Senatorial District; and

WHEREAS, pursuant to the authority of the Senate by virtue of Section 38 of the Kentucky Constitution to judge the qualifications, elections, and returns of its members, the Senate convened an Election Contest Board to receive evidence and report to the full Senate; and

WHEREAS, the full Senate has considered and adopted the Election Contest Board Report Number Two as the findings and the will of the Senate in this matter pursuant to Section 38 of the Kentucky Constitution, and the Senate hereby reaffirms the findings and conclusions of Election Contest Board Report Number Two as the final and conclusive determination of the Senate in this matter;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. Dana Seum Stephenson, the candidate chosen by a majority of the votes cast for the office of State Senator for the 37th Senatorial District at the general election of November 2, 2004, is fully qualified to be seated as a member of the Kentucky State Senate to represent the 37th Senatorial District, and therefore may serve for the term of office to which she was elected, which commenced January 1, 2005.

Section 2. The Senate hereby invites Dana Seum Stephenson to appear before the bar of the Senate to take the oath of office as the duly elected Senator from the 37th Senatorial District, which shall be administered forthwith.

Section 3. Upon the administration of the oath of office, Dana Seum Stephenson shall be seated as the Senator from the 37th Senatorial District and shall be entitled to all of the rights and privileges of the Senate.

Dana Seum Stephenson, the newly elected senator from the 37th District, was administered the oath of office by Chief Clerk Jay Hartz.

Recess

Senator Kelly moved to recess the Senate until 2:00 p.m. Agreed.

The President called the Senate to order.

Recess

Senator Kelly moved to recess the Senate for five minutes for a Committee on Committees meeting in Room 327. Agreed.

The President called the Senate to order.

Reference of Bills and Resolutions

The Clerk reported the following bills and resolutions had been referred by the Committee on Committees:

Agriculture and Natural Resources: **SB 41, SB 48**

Appropriations and Revenue: **SB 4, SB 6, SB 14, SB 21, SB 31, SB 34, SB 35**

Economic Development, Tourism, and Labor: **SB 37, SB 38, SB 40, SJR 12**

Education: **SB 7, SB 19, SB 46**
Health and Welfare: **SB 15, SB 20, SB 23, SB 24, SB 25, SB 28, SB 47**
Judiciary: **SB 16, SB 26, SB 45**
Licensing, Occupations, and Administrative Regulations: **SB 9, SB 10, SB 17, SB 27, SB 29**
State and Local Government: **SB 3, SB 8, SB 13, SB 18, SB 22, SB 30, SB 32, SB 42, SB 43, SR 6**
Transportation: **SB 5, SB 11, SB 12, SB 39, SJR 4, SJR 15**
Veterans, Military Affairs, and Public Protection: **SB 33, SB 44**
To Senate Floor: **SR 22, SR 25, SR 26, SR 27, SR 28, SR 29, SR 31**

Report of Committees (cont.)

The Committee on Committees has met and made the following committee appointments:

Agriculture and Natural Resources
Senator Boswell
Senator Harris
Senator Jensen, Chm.
Senator Kelly
Senator Leeper
Senator McGaha, VC
Senator Pendleton
Senator Ridley
Senator Sanders
Senator Scorsone
Senator Thayer

Appropriations and Revenue
Senator Borders, Chm.
Senator Boswell
Senator Buford
Senator Gibson
Senator Harper-Angel
Senator Harris, VC
Senator Kelly
Senator Kerr
Senator Leeper
Senator McGaha
Senator Palmer
Senator Shaughnessy
Senator Stivers
Senator Tapp
Senator Tori
Senator Turner
Senator Westwood

Banking and Insurance
Senator Buford, Chm.
Senator Denton, VC
Senator Harris
Senator Jensen

Senator Leeper
Senator Mongiardo
Senator Neal
Senator Ridley
Senator Roeding
Senator Seum
Senator Shaughnessy

Economic Development, Tourism, and Labor
Senator Carroll
Senator Denton
Senator Guthrie, VC
Senator Harper-Angel
Senator Jones
Senator Kerr, Chm.
Senator Rhoads
Senator Sanders
Senator Stine
Senator Westwood
Senator Winters

Education
Senator Blevins
Senator Guthrie
Senator Kerr
Senator McGaha, VC
Senator Neal
Senator Palmer
Senator Seum-Stephenson
Senator Shaughnessy
Senator Tapp
Senator Turner
Senator Westwood
Senator Williams
Senator Winters, Chm.

Rules
Senator Kelly, VC
Senator Pendleton
Senator Sanders
Senator Seum
Senator Stine
Senator Turner
Senator Williams, Chm.
Senator Worley

Health and Welfare
Senator Borders

Senator Buford, VC
Senator Denton, Chm.
Senator Harper-Angel
Senator Kerr
Senator Pendleton
Senator Roeding
Senator Scorsone
Senator Seum
Senator Stine
Senator Turner

Judiciary
Senator Gibson
Senator Jones
Senator Neal
Senator Rhoads
Senator Roeding
Senator Scorsone
Senator Seum
Senator Stine, VC
Senator Stivers, Chm.
Senator Westwood
Senator Williams

Licensing, Occupations, and Administrative Regulations
Senator Buford
Senator Carroll
Senator Denton
Senator Jones
Senator Mongiardo
Senator Scorsone
Senator Seum
Senator Seum-Stephenson, VC
Senator Stivers
Senator Tapp, Chm.
Senator Thayer

State and Local Government
Senator Blevins
Senator Carroll
Senator Harris
Senator Gibson
Senator Jensen
Senator Kerr, VC
Senator Seum-Stephenson
Senator Thayer, Chm.
Senator Tori
Senator Turner

Senator Worley

Transportation
Senator Blevins
Senator Borders
Senator Boswell
Senator Guthrie, Chm.
Senator Leeper, VC
Senator Palmer
Senator Roeding
Senator Sanders
Senator Tapp
Senator Thayer
Senator Williams
Senator Worley

Committee on Committees
Senator Kelly, VC
Senator Pendleton
Senator Sanders
Senator Seum
Senator Stine
Senator Turner
Senator Williams, Chm.
Senator Worley

Enrolling
Senator Carroll
Senator Seum-Stephenson
Senator Tori, Chm.

Veterans, Military Affairs, and Public Protection
Senator Gibson
Senator Harper-Angel
Senator Jensen
Senator McGaha
Senator Mongiardo
Senator Pendleton
Senator Ridley
Senator Roeding, VC
Senator Rhoads
Senator Seum
Senator Stine
Senator Tori, Chm.
Senator Winters

Budget Review Subcommittee on Economic Development and Energy, Natural Resources, and Environmental Protection
Senator Boswell

Senator Harris, Chm.
Senator Kerr
Senator Sanders

Budget Review Subcommittee on General Government, Finance, and Public Protection
Senator Carroll
Senator Seum-Stephenson
Senator Tori
Senator Westwood, Chm.

Budget Review Subcommittee on Justice and Judiciary
Senator Neal
Senator Seum
Senator Stivers, Chm.

Budget Review Subcommittee on Education
Senator Guthrie, Chm.
Senator Shaughnessy
Senator Winters

Budget Review Subcommittee on Human Resources
Senator Buford, Chm.
Senator Denton
Senator Mongiardo

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs
Senator Carroll
Senator Gibson
Senator Kerr
Senator Thayer, Co-Chm.
Senator Tori

Subcommittee on Energy
Senator Blevins
Senator Borders
Senator Harper-Angel
Senator Harris
Senator Jensen
Senator Rhoads
Senator Stivers, Co-Chm.
Senator Turner

Motions, Petitions and Communications (cont.)

Senator Kelly moved to adopt the Committee on Committees report on the Standing Committees for 2005-2006. Agreed.

Senator Buford moved to adopt **SR 7**. Agreed.

SR 7 is as follows:

SR 7, A RESOLUTION adjourning the Senate in loving memory and honor of J. T. Collins.

With deepest respect and admiration, we pay homage and tribute to J. T. Collins, and we pause in silent reverence for his soul.

WHEREAS, J. T. Collins was born on May 1, 1923, a native of Jessamine County, Kentucky, and he traversed these earthly bounds on December 6, 2004; and

WHEREAS, J. T. Collins was the loving son of the late David Campbell and Pearl Munson Collins; he was the devoted husband of 59 years to Helen Collins; he was the loving father of a son and daughter-in-law, Ronnie and Dora Collins, and a daughter and son-in-law, Judy and Robert Drakeford; he was the proud grandfather of Michael Johns, Sherrie Bullock, Vance Drakeford, and Russell Cole; and the proud great-grandfather of Shire, Mikeh, and Maxx Johns, and Olivia and Elizabeth Bullock; and he also leaves behind a loving brother, Luke Collins, and two loving sisters, Nancy Brogle and Sue Dean; and

WHEREAS, J. T. Collins was an esteemed member of the Jessamine County community, where he was a devout member, elder, and Sunday School Superintendent of Bethany Christian Church; and he was a successful farmer and cattleman; and

WHEREAS, the passing of J. T. Collins has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express it profound sense of sorrow upon the passing of J. T. Collins, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of J. T. Collins.

Section 3. The Clerk of the Senate is hereby directed to transmit two copies of this Resolution to Mrs. Helen Collins, 5131 Danville Road, Nicholasville, Kentucky 40356-5273.

Senator Buford moved to adopt **SR 8**. Agreed.

SR 8 is as follows:

SR 8, A RESOLUTION adjourning the Senate in loving memory and honor of Edgar Ray Burrus.

With deepest respect and admiration, we pay homage and tribute to Edgar Ray Burrus, and we pause in silent reverence for his soul.

WHEREAS, Edgar Ray Burrus was born on July 19, 1910, a native of Madison County, and longtime resident of Nicholasville, Jessamine County, Kentucky, and he traversed these earthly bounds on December 6, 2004; and

WHEREAS, Edgar Ray Burrus was the loving son of the late Edgar and Amanda Jones Burrus; he also was preceded in passing by a brother and two sisters; he was the devoted husband of Margaret Perkins Burrus; he was the loving father of a daughter, Betty Flannery of Alabama, and two sons, Harold Burrus of Nicholasville and David Burrus of Florida; he was the proud grandfather of six grandchildren and the proud great-grandfather of fourteen great-grandchildren; and he also leaves behind two loving sisters, Mary Alice Burrus of Lexington and Irene Burrus of Virginia; and

WHEREAS, Edgar Ray Burrus was self-employed for over 40 years as a successful carpet and linoleum installer; and

WHEREAS, the passing of Edgar Ray Burrus has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Edgar Ray Burrus, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Edgar Ray Burrus.

Section 3. The Clerk of the Senate is hereby directed to transmit two copies of this Resolution to Mrs. Margaret Burrus, 136 Burdraco Lane, Nicholasville, Kentucky 40356-9656.

Senator Buford moved to adopt **SR 9**. Agreed.

SR 9 is as follows:

SR 9, A RESOLUTION adjourning the Senate in loving memory and honor of Sandi Bastin.

With deepest respect and admiration, we pay homage and tribute to Sandi Bastin, and we pause in silent reverence for her soul.

WHEREAS, Sandi Bastin was a native of Lexington, Fayette County, Kentucky, and a resident of Lancaster, Garrard County, Kentucky, and she traversed these earthly bounds on December 12, 2004; and

WHEREAS, Sandi Bastin was the loving daughter of Dr. James R. and Marsha Spears; she was the devoted wife of Eric G. Bastin; she was the loving mother of two sons, James of Lexington and Noah of Lancaster, and two daughters, Morgan and Jordan, both of Lancaster; and she also leaves behind two loving sisters, Cindy Hodges and Tracy Watts, and two loving brothers, James Spears and Shannon Spears, and a loving grandmother, Dorothy Southworth; and

WHEREAS, Sandi Bastin was a self-employed cosmetologist at Bastin Hair Company in Nicholasville; and

WHEREAS, the passing of Sandi Bastin has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Sandi Bastin, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Sandi Bastin.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to Mr. Eric G. Bastin, 108 Royalty Drive, Lancaster, Kentucky 40444.

Senator Buford moved to adopt **SR 21**. Agreed.

SR 21 is as follows:

SR 21, A RESOLUTION adjourning the Senate in loving memory and honor of Corporal Nicholas J. Dieruf.

With deepest respect and admiration, we pay homage and tribute to Corporal Nicholas J. Dieruf, and we pause in silent reverence for his soul.

WHEREAS, Nicholas J. Dieruf was born May 20, 1982, a native of Lexington, Fayette County, Kentucky, and he traversed these earthly bounds April 8, 2004; and

WHEREAS, Nicholas "Nich" J. Dieruf was the loving son of Charles Raffo Dieruf, Jr. and Barbara Marie Greer Dieruf; he was the devoted husband of Emily Duncan Dieruf; he was the caring brother of Charles Dieruf III of Hebron, Matthew Dieruf of Lompoc, California, and Paul Dieruf of Lexington; and he also leaves behind proud grandparents, Charles and Fran Dieruf, Sr. of Frankfort and Anthony and Virginia Greer of Lexington, and many other loving family members; and

WHEREAS, Nich J. Dieruf graduated from Paul Lawrence Dunbar High School in 2000 where he was actively involved; he ran cross country and was a member of numerous clubs and organizations; and

WHEREAS, Nich J. Dieruf enlisted in the Marines following high school in October 2000; he was assigned to the 1st Light Armored Reconnaissance Battalion, 1st Marine Division, I Marine Expeditionary Force based at Camp Pendleton, California; and

WHEREAS, Corporal Nich J. Dieruf was first deployed to Iraq in early 2003, bravely supporting Operation Iraqi Freedom, where his division was the first to enter Baghdad in April 2003; he returned to Camp Pendleton in the summer of 2003; he was married on January 3, 2004, in Lexington before being deployed for a second tour in Iraq in February; and

WHEREAS, on April 8, 2004, the life of Corporal Nich J. Dieruf ended prematurely while he was working as a gunner on an armored vehicle in Al Anbar Province, Iraq, when an explosion occurred during enemy action; and

WHEREAS, Corporal Nich J. Dieruf served his country with honor and distinction; he was fearlessly committed to God, his country, and its mission; and he was buried with full military honors; during his service, he was awarded the United States Marine Corps Good Conduct Medal, the United States Navy/Marine Corps Achievement Medal with Combat "V," the Combat Action Ribbon, and the National Defense Service Medal; and

WHEREAS, Nich Dieruf was an extremely likeable and cheerful young man who had a very bright future before him; he had many interests including sports, outdoor activities, and amateur photography; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Corporal Nich J. Dieruf and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Corporal Nich J. Dieruf has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Corporal Nicholas J. Dieruf and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Corporal Nicholas J. Dieruf.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to the wife of Corporal Nicholas J. Dieruf, Mrs. Emily Duncan Dieruf, 2394 Stonewood Lane, Lexington, Kentucky 40509; to the mother of Corporal Nicholas J. Dieruf, Ms. Barbara Dieruf, 1085 Scotts Ferry Road, Versailles, Kentucky 40383; and to the father of Corporal

Nicholas J. Dieruf, Mr. Charles Dieruf, Jr., 508 Southpoint Drive, Lexington, Kentucky 40501.

Senator Boswell moved to adopt **SR 10**. Agreed.

SR 10 is as follows:

SR 10, A RESOLUTION adjourning the Senate in loving memory and honor of John William Muster III.

With deepest respect and admiration, we pay homage and tribute to John William Muster III, and we pause in silent reverence for his soul.

WHEREAS, John William Muster III was born on March 1, 1925, a native of Calhoun, McLean County, Kentucky, and he traversed these earthly bounds on November 17, 2004; and

WHEREAS, John William Muster III was the loving son of the late John W. Muster II and Eunice Whayne Muster; he was the devoted husband of 61 years to Claire Marie Gibson Muster; he was the loving father of two sons, John W. Muster IV and Michael Muster, both of Calhoun; he was the proud grandfather of four grandchildren, John W. Muster V, Lee M. Muster, Kendel Marie Muster, and Holly Michelle Muster, all of Calhoun; and he also leaves behind a loving niece, Whayne Ann Crick Badgett of Madisonville, and two great-nieces; and

WHEREAS, John William Muster III served his country with honor and distinction in the United States Army during World War II; and

WHEREAS, John William Muster III graduated from Calhoun High School in 1943; he was a Kentucky licensed funeral director for more than 55 years, and he had served as president of Muster Funeral Homes of Calhoun and Livermore for more than 50 years; he was the fourth generation of his family to serve the people of McLean County and its surrounding communities; he was a dedicated funeral director and a member of many professional organizations; he was a member and past president of the Kentucky Funeral Directors Association and a member of the National Funeral Directors Association; he served as a director for the Kentucky Funeral Directors Burial Association for more than 30 years; he served on the Calhoun Cemetery Board, and he was also a member of the National Conference of Funeral Service Examining Board; and

WHEREAS, John William Muster III was an outstanding member of the McLean County community, where he was a member and past deacon of the Calhoun Christian Church; he was a member and past president of Calhoun Lions Club; he was a 50 year member of the Vienna Lodge No. 423 F&AM, and he was an honorary member of the Monsarrat Lodge No. 379 F&AM; he was also a 50 year member of Rizpah Shrine Temple in Madisonville, and a member of Western Kentucky Consistory; and

WHEREAS, the passing of John William Muster III has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of John William Muster III, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of John William Muster III.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to Mr. John W. Muster V, Muster Funeral Homes, P. O. Box 160, Calhoun, Kentucky 42327.

Senator Boswell moved to adopt **SR 16**. Agreed.

SR 16 is as follows:

SR 16, A RESOLUTION honoring Mayor Waymond Morris on the occasion of his retirement from the Office of Mayor of Owensboro, Kentucky.

WHEREAS, Waymond O. Morris is a vital resident of the Commonwealth of Kentucky, living in Owensboro, in Daviess County; and

WHEREAS, Waymond O. Morris has exemplified honorable civic service in his multifaceted career, serving 36 years in public education, including serving as Daviess County High School Head Football Coach from 1965 to 1975 and earning during his tenure many regional and state accolades; serving as Principal of Daviess County High School in 1982 until retiring in 1995 and being named as Kentucky Principal of the Year in 1989; serving as Vice Principal of Apollo High School where he took an active role in renovating the discipline policy, which was recognized nationally; and serving as Assistant Superintendent in which capacity he was responsible for improving the implementation of many school programs, receiving accolades for his superlative work; and

WHEREAS, Waymond O. Morris began his political service to the citizens of Owensboro in 1984 by serving on the Owensboro Board of Commissioners, where he was named Mayor Pro Tem three times, and in 1995, was appointed to the Office of Mayor upon the resignation of his predecessor, and thereafter was elected for two more consecutive terms until his retirement from the office at the end of December, 2004; and

WHEREAS, during his tenure as Mayor of Owensboro, Waymond O. Morris was instrumental in making significant improvements to Owensboro's city infrastructure, including projects centered around the areas of transportation and drainage, services which are essential for a healthy and prosperous city; and

WHEREAS, during his tenure as Mayor of Owensboro, Waymond O. Morris was the driving force behind making significant improvements to the day-to-day operations of the city, improving services to the citizens and the efficiency of the delivery of those services; and

WHEREAS, during his tenure as Mayor of Owensboro, Waymond O. Morris was instrumental in bringing economic vitality to Owensboro through the many businesses and enterprises that now exist in the city bearing witness to his excellent leadership; and

WHEREAS, Waymond O. Morris's influence was felt outside of the borders of the City of Owensboro where he served on the Board of Directors and on the Legislative Commission of the Kentucky League of Cities, as well as serving in various capacities with the National League of Cities;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby congratulate Waymond O. Morris on the event of his retirement from the Office of the Mayor of Owensboro, in Daviess County, Kentucky, wishing him all the best toward a well-deserved rest from the demands of public office.

Section 2. The Senate furthermore recognizes that Waymond O. Morris's leadership of the City of Owensboro has been of an exemplary nature and has contributed to the vitality of the city and toward a better quality of life for its citizens.

Section 3. The Senate furthermore lauds the family of Waymond O. Morris, namely his wife, Alyce B. Morris, and his daughters, Kathy Roberts, Kim Watson, Kelly Skeens, and Tammy Morris, for their and their families' essential contributions of support and guidance, as well as for their love that sustains him in his work and in his life.

Section 4. The Clerk of the Senate is directed to transmit five copies of this Resolution to Waymond O. Morris, 1600 Brentwood Drive, Owensboro, Kentucky 42301.

Senator Mongiardo moved to adopt **SR 22**. Agreed.

SR 22 is as follows:

SR 22, A RESOLUTION adjourning the Senate in loving memory and honor of Guy Mattison Davenport Jr.

With deepest respect and admiration, we pay homage and tribute to Guy Mattison Davenport Jr., and we pause in silent reverence for his soul.

WHEREAS, Guy Mattison Davenport Jr. was born on November 23, 1927, a native of Anderson, South Carolina, and longtime resident of Lexington, Fayette County, Kentucky, and he traversed these earthly bounds on January 4, 2005; and

WHEREAS, Guy Mattison Davenport Jr. received his bachelor's degree in English and comparative literature at Duke University in 1948; he received his bachelor's degree in literature at Oxford University in 1950; and he received his doctorate in literature at Harvard University in 1961; and

WHEREAS, Guy Mattison Davenport Jr. met the poet Ezra Pound in 1952, which cemented his interest in modern literature; he was an assistant to the poet Archibald MacLeish, and he studied with some of the top scholars in their fields, including Harry Levin on Shakespeare and Perry Miller on the Puritans; he was an instructor in English at Washington University in St. Louis, Missouri from 1952 to 1955; in 1955, he began working on his doctorate at Harvard, where he was also a tutor from 1957 to 1960; he was assistant professor of English at Haverford College in Pennsylvania from 1960 to 1963; and he was a Distinguished Alumni Professor of English at the University of Kentucky College of Arts and Sciences from 1963 to 1991; and

WHEREAS, Guy Mattison Davenport Jr. has been recognized nationally and internationally by many educational and professional institutions for his academic and intellectual achievements, including being selected as a Rhodes Scholar at Oxford University from 1948 to 1950, where he was also a member of Merton College, and where he wrote the first thesis on James Joyce to be accepted by that university, and he was also taught Old English by Oxford professor J. R. R. Tolkien; he was the recipient of the John D. and Catherine T. MacArthur Foundation Fellowship in 1990, a Brandeis Arts Award in 1991, the Thomas Carter prize for literary criticism in 1987, the Morton Douwen Zabel award for fiction from the American Academy and Institute of Arts and Letters, translation awards from PEN and the Academy of American Poets, and the Leviton-Blumenthal Prize for poetry; and

WHEREAS, Guy Mattison Davenport Jr. was elected a fellow in the American Academy of Arts and Sciences in Cambridge, Massachusetts in 1998; he was honored by the Kentucky Libraries with its 2001 Medallion for Intellectual Achievement, recognizing his broad contributions to American literature; and

WHEREAS, Guy Mattison Davenport Jr. joined the University of Kentucky faculty in 1963, and that same year he published a book on Harvard University's natural philosopher Louis Agassiz, followed by several volumes of poetry, translations of works from classical Greek authors, and essays on modernist poets; in 1974, Scribner's published his first collection of short stories titled "Tatlin!" and a second collection of short stories, "DaVinci's Bicycle," was published in 1979; "Ecologues" appeared in 1981 as well as a collection of 40 essays, "Geography of the Imagination"; other publications include: "Thasos and Ohio," a volume of poems, in 1986; "The Jules Verne Steam Balloon" short story collection in 1987; "A Table of Green Fields" in 1993;

"The Cardiff Team" in 1996; and "A Balance of Quinces," an edition of his paintings and drawings; in 1997 he published "The Hunter Gracchus," a collection of essays on literature and art, and in 1998 "Objects on a Table," an aesthetic meditation on the representation of objects in literature and still-life painting, was published; and

WHEREAS, Guy Mattison Davenport Jr. was one of the most creative and original writers of the twentieth century, and the University of Kentucky was indeed privileged to have had his genius and his inspiration of reason and imagination; and

WHEREAS, the passing of Guy Mattison Davenport Jr. has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Guy Mattison Davenport Jr., and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Guy Mattison Davenport Jr.

Section 3. The Clerk of the Senate is hereby directed to transmit copies of this Resolution to Ms. Bonnie Jean Cox, 128 Owsley Avenue, Lexington, Kentucky 40502; to the Honorable Lee T. Todd, President, University of Kentucky, 101 Main Building, Lexington, Kentucky 40506-0032; to the Honorable James F. Hardymon, Chairman of the University of Kentucky Board of Trustees, 333 West Vine Street, Suite 300, Lexington, Kentucky 40507; and to Ellen Rosenman, Chair, University of Kentucky English Department, 1203 Patterson Office Tower, Lexington, Kentucky 40506.

Senator Seum moved to adopt **SR 18**. Agreed.

SR 18 is as follows:

SR 18, A RESOLUTION adjourning the Senate in loving memory and honor of Staff Sergeant George S. Rentschler.

With deepest respect and admiration, we pay homage and tribute to Staff Sergeant George S. Rentschler, and we pause in silent reverence for his soul.

WHEREAS, George S. Rentschler was born June 30, 1972, a native of Louisville, Jefferson County, Kentucky, and he traversed these earthly bounds April 7, 2004; and

WHEREAS, George S. Rentschler was the loving son of Lillian Rentschler and the late Gilbert Rentschler; he was the devoted husband of Rachael Basham Rentschler; he was the proud father of Scott Christopher Rentschler and Brock Andrew Rentschler; and he leaves behind many other loving family members; and

WHEREAS, George S. Rentschler was a student at Central High School and was a graduate of Male High School; following high school, he enlisted in the United States Army; and

WHEREAS, Staff Sergeant George S. Rentschler dedicated his life to serving his country with over ten years of military service; he worked as a training officer at Fort Knox, Kentucky; he also completed assignments at Fort Hood, Texas, and in Bosnia; and

WHEREAS, in October 2003, Staff Sergeant George S. Rentschler departed for Baumholder, Germany, with his wife and sons; after a brief time, he was deployed with the 1st Battalion, 35th Armored Regiment, 1st Armored Division, in support of Operation Iraqi Freedom; and

WHEREAS, while serving in Baghdad, the life of Staff Sergeant George S. Rentschler ended prematurely when a rocket hit the side of the tank in which he was riding en route to a checkpoint secured by fellow platoon members; and

WHEREAS, Staff Sergeant George S. Rentschler valiantly served his country with honor and distinction; during his career, he was awarded the Army Commendation Medal, Army Achievement Medal, Good Conduct Medal, National Defense Service Medal, Armed Forces Expeditionary Medal, and Global War on Terrorism Service Medal; he was posthumously awarded the Bronze Star and Purple Heart; and

WHEREAS, George S. Rentschler had a love of teaching and coaching, a love of his country, and, most importantly, an unmatched love for his family; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Staff Sergeant George S. Rentschler and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Staff Sergeant George S. Rentschler has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Staff Sergeant George S. Rentschler and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Staff Sergeant George S. Rentschler.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to the wife of Staff Sergeant George S. Rentschler, Mrs. Rachael Rentschler, 915 Birchwood Road, Lebanon, Ohio 45036; and to the mother of Staff Sergeant George S. Rentschler, Mrs. Lillian Rentschler, 1028 Seelbach Avenue, Louisville, Kentucky 40215.

Senator Roeding moved to be shown as a co-sponsor of **SR 6**. Agreed.

Senator Roeding moved to adopt **SR 5**. Agreed.

SR 5 is as follows:

SR 5, A RESOLUTION adjourning the Senate in loving memory and honor of Jack Wright.

With deepest respect and admiration, we pay homage and tribute to Jack Wright, and we pause in silent reverence for his soul.

WHEREAS, Jack Wright was born on October 2, 1929, a native of Latonia, Kenton County, Kentucky, and he traversed these earthly bounds on November 15, 2004; and

WHEREAS, Jack Wright was the loving son of the late Paul and Marie Bornhorn Wright; he was the devoted husband of Mary Collopy Wright; he was the loving father of six daughters and three sons, Paula Volz and Laurie Driscoll, both of Union; Andy Hutchins of Piner; Sally Rohlman of Erlanger; and Sue McGovern and Cindy Clarke, both of Villa Hills; John Wright of Jeffersonville, Indiana; Mike Wright of New Castle; and Jeff Wright of Corinth; and he was the proud grandfather of 18 grandchildren and the proud great-grandfather of a great-grandchild; and

WHEREAS, Jack Wright graduated from Holy Cross High School in 1947, where he was an undefeated boxer in the lightweight division; he was captain of the basketball team, and he won the Northern Kentucky High School Golf Championship; and

WHEREAS, Jack Wright was employed by Cloverleaf Dairy, retiring after 30 years of faithful service; after which time, he worked at Glennwood Hall Golf Course in Perry Park, for Devou Park in Covington, and the World of Sports golf course in Florence; through the years, he won many golf club championships at Twin Oaks in Covington and Glennwood Hall, and he was inducted into the prestigious Northern Kentucky Sports Hall of Fame in 2003; and

WHEREAS, Jack Wright was a good Samaritan and faithful servant, in the truest sense of the word, always helping those in need, especially during the Christmas holidays; it was these acts of kindness and love that separated him from the common man, and surely heaven came to him upon his passing; and

WHEREAS, Jack Wright's Mass of Christian Burial was held on November 18, 2004 at Saint Joseph Church in Crescent Springs, with entombment at Saint Mary Mausoleum; and his passing has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Jack Wright, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Jack Wright.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to Mrs. Mary Collopy Wright, 9741 Spruce Lane, Union, Kentucky 41091.

Senator Roeding moved to adopt **SR 11**. Agreed.

SR 11 is as follows:

SR 11, A RESOLUTION adjourning the Senate in loving memory and honor of Theodore Courtney Schrand.

With deepest respect and admiration, we pay homage and tribute to Theodore Courtney Schrand, and we pause in silent reverence for his soul.

WHEREAS, Theodore Courtney Schrand was born on May 25, 1922, a native of Covington, Kenton County, Kentucky, and he traversed these earthly bounds on November 17, 2004; and

WHEREAS, Theodore Courtney Schrand was the loving son of the late George A. and Agnes Huck Schrand; he was the devoted husband of 58 years to Rita Schrand; he was the loving father of three daughters, Cindy Schrand, Sue Kramer, and Patti Uhling, and a son, Steven Courtney Schrand; he was the proud grandfather of six grandchildren and the proud great-grandfather of five great-grandchildren; and he also leaves behind a loving sister, Mary Evelyn Hebbeler; and

WHEREAS, Theodore Courtney Schrand served his country with honor and distinction in the United States Marine Corps during World War II, where he was stationed in Guadalcanal and New Zealand; and

WHEREAS, Theodore Courtney Schrand retired from the old Bavarian Brewery in Covington, after many years of faithful service, where he oversaw the bottling process; and after which time, he was employed by the John R. Green Company; and

WHEREAS, Theodore Courtney Schrand was an esteemed member of the Kenton County community, where he graduated from Covington Catholic High School; he coached his daughters on the Blessed Sacrament parish softball team, and when he was 60, he played softball on his son's teams; he had a wonderful sense of humor, and displayed it by calling all members of his family by nicknames: his wife's name was "Moose," his daughters names were "Dude, Pete, and Din," and his son's nickname was "Bones" when he was younger and "Waffle" when he was older; and

WHEREAS, the passing of Theodore Courtney Schrand has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Theodore Courtney Schrand, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Theodore Courtney Schrand.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to Mrs. Rita Schrand, 804 Monte Lane, Covington, Kentucky 41011.

Senator Westwood moved to be shown as a co-sponsor of **SR 6**. Agreed.

Senator Westwood moved to be shown as a co-sponsor of **SR 30**. Agreed.

Senator Tori moved to adopt **SR 31**. Agreed.

SR 31 is as follows:

SR 31, A RESOLUTION adjourning the Senate in loving memory and honor of Lance Corporal DeShon E. Otey.

With deepest respect and admiration, we pay homage and tribute to Lance Corporal DeShon E. Otey, and we pause in silent reverence for his soul.

WHEREAS, DeShon E. Otey was born March 25, 1980, a native of Radcliff, Hardin County, Kentucky, and he traversed these earthly bounds June 21, 2004; and

WHEREAS, DeShon E. Otey was the loving son of Robin Mays of Radcliff and Ronald Otey, Sr. of Roanoke, Virginia; he was the caring brother of Ronald Otey, Jr., currently serving in the Marine Corps, and Domenique Otey, both of Radcliff; and he also leaves behind many other proud family members including a stepfather, grandmothers, and stepsisters; and

WHEREAS, DeShon E. Otey graduated from North Hardin High School in 2001 where he participated in football and boxing; and

WHEREAS, DeShon E. Otey enlisted in the Marines in June 2001; he was assigned to the 2nd Battalion, 4th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force based at Camp Pendleton, California; and

WHEREAS, Lance Corporal DeShon E. Otey was transferred to Iraq in February 2004, bravely supporting Operation Iraqi Freedom, where he performed his duties as a rifleman; he was an elite marksman participating in numerous dangerous and critical missions; and

WHEREAS, on June 21, 2004, the life of Lance Corporal DeShon E. Otey ended prematurely in Al Anbar Province, Iraq, when he came under attack during hostile fire; and

WHEREAS, Lance Corporal DeShon E. Otey served his country with honor and distinction; he was buried with full military honors; for his dedicated service, he was awarded the National Defense Service Medal, the Sea Service Deployment Ribbon, a Purple Heart, the Combat Action Ribbon, the Good Conduct Medal, the Global War on Terrorism Expeditionary Medal, the Rifle Marksman Badge, and the Pistol Marksman Badge; and

WHEREAS, DeShon E. Otey was an extremely likable young man who had a very bright future before him; he was committed to the Marines and his role of service to his country; he was a member of the First Baptist Church in Elizabethtown; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Lance Corporal DeShon E. Otey and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Lance Corporal DeShon E. Otey has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Lance Corporal DeShon E. Otey and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Lance Corporal DeShon E. Otey.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to the mother of Lance Corporal DeShon E. Otey, Mrs. Robin Mays, 212 Eagle Pass Drive, Radcliff, Kentucky 40160.

Senator Thayer moved to be shown as a co-sponsor of **SR 30**. Agreed.

Senator Boswell moved to adopt **SR 17**. Agreed.

SR 17 is as follows:

SR 17, A RESOLUTION adjourning the Senate in loving memory and honor of Sergeant James W. Harlan.

With deepest respect and admiration, we pay homage and tribute to Sergeant James W. Harlan, and we pause in silent reverence for his soul.

WHEREAS, James William Harlan was born December 4, 1959, a native of Owensboro, Daviess County, Kentucky, and he traversed these earthly bounds May 14, 2004; and

WHEREAS, James W. Harlan was the loving son of the late William Arthur Harlan and Doris Marie Gray; he was the devoted fiancé of Carol Gray; and he also leaves behind children, grandchildren, and many other beloved family members; and

WHEREAS, James W. Harlan was a professional truck driver, welder, and heavy equipment operator; and

WHEREAS, Sergeant James W. Harlan was a patriot with two decades of combined service in the Kentucky National Guard and United States Army Reserves; he served with the 660th Transportation Company, 88th Regional Readiness Command, Zanesville, Ohio; and

WHEREAS, after faithfully serving his first tour in Iraq during 2003, Sergeant James W. Harlan deployed for his second tour in February 2004; he was returning from a fuel delivery near Balad, Iraq, when a bomb in a roadside vehicle detonated near the truck he was riding in, critically injuring him; and

WHEREAS, Sergeant James W. Harlan bravely served his country with honor and distinction; he demonstrated extraordinary skill as a soldier; during his career, he was awarded the Meritorious Service Medal, Army Commendation Medal with oak leaf cluster, Army Achievement Medal, Reserve Components Achievement Medal with two oak leaf clusters, National Defense Service Medal, the Non-Commissioned Officer Professional Development Ribbon, Army Service Ribbon, and various other ribbons; he was posthumously awarded the Bronze Star and the Purple Heart; and

WHEREAS, Sergeant James W. Harlan was a cherished member of his community who enjoyed fishing, hunting, and various sports; he coached Little League baseball for three years; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Sergeant James W. Harlan and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Sergeant James W. Harlan has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Sergeant James W. Harlan and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Sergeant James W. Harlan.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to the mother of Sergeant James W. Harlan, Mrs. Doris Gray, 260 Industrial Drive, Owensboro, Kentucky 42301; and to the fiancée of Sergeant James W. Harlan, Ms. Carol Gray, 5409 Graham Lane, Owensboro, Kentucky 42303.

Senator Harris moved to adopt **SR 26**. Agreed.

SR 26 is as follows:

SR 26, A RESOLUTION adjourning the Senate in loving memory and honor of Georgia Boxley Ensminger.

With deepest respect and admiration, we pay homage and tribute to Georgia Boxley Ensminger, and we pause in silent reverence for her soul.

WHEREAS, Georgia Boxley Ensminger was a native daughter of Kentucky and a beloved member of the Oldham County community; and

WHEREAS, Georgia Boxley Ensminger traversed these earthly bounds on March 15, 2004; and

WHEREAS, Georgia Boxley Ensminger was an active and outgoing citizen in the Oldham County community, where she was a member of the Crestwood United Methodist Church and was retired from the Oldham County School District; and

WHEREAS, Georgia Boxley Ensminger was a caring and loving person sorely missed by her family and is survived by a sister, Dorothy Cooks, two sons, Mark Ensminger and Charles Ensminger, a daughter, Nikki Hardin, and eight grandchildren and nine great-grandchildren; and

WHEREAS, the passing of Georgia Boxley Ensminger has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Georgia Boxley Ensminger, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Georgia Boxley Ensminger.

Section 3. The Clerk of the Senate is hereby directed to transmit fifteen copies of this Resolution to Mr. Charles Ensminger, 7512 Millet Place, Crestwood, Kentucky 40014.

Senator Harris moved to adopt **SR 27**. Agreed.

SR 27 is as follows:

SR 27, A RESOLUTION adjourning the Senate in loving memory and honor of Marion Alexander "Chunk" Caywood.

With deepest respect and admiration, we pay homage and tribute to Marion Alexander "Chunk" Caywood, and we pause in silent reverence for his soul.

WHEREAS, Marion Alexander Caywood was born on December 20, 1910, a native of Fleming County, Kentucky, and he traversed these earthly bounds on December 12, 2004; and

WHEREAS, Marion Alexander Caywood was the loving son of the late Lucian Daniel Caywood and Mota Bell McCall; he was the devoted husband of 67 years to June Rice Caywood; he was the loving father of a daughter, Marian June "Coozie" Husband of Crestwood; he was the proud grandfather of two grandchildren, Wesley Thomas Husband of La Grange and Rebecca June Husband of Crestwood; and he also leaves behind a loving sister, Ruby Banet of New Albany, Indiana; and

WHEREAS, Marion Alexander Caywood was an active and involved citizen and an esteemed member of the Oldham County community, where he was a member of Ballardsville Baptist Church; he was a dairy farmer by profession, and he was a member of Dairy Man Inc. and Kentucky Farm Bureau; he was a charter member of the Lions Club of Ballardsville and he was also on the board of directors of Southern States; and

WHEREAS, the passing of Marion Alexander "Chunk" Caywood has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Marion Alexander "Chunk" Caywood, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Marion Alexander "Chunk" Caywood.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to Mrs. June Caywood, 1403 W. Highway 22, Crestwood, Kentucky 40014.

Senator Harris moved to adopt **SR 28**. Agreed.

SR 28 is as follows:

SR 28, A RESOLUTION offering condolences to the family of Quinn Callahan Dunn.

WHEREAS, Quinn Callahan Dunn was born on September 27, 2004, to her parents, Patrick and Michelle Dunn; and

WHEREAS, Quinn Callahan Dunn after a short time on this Earth was placed back in Heaven's charge on December 25, 2004; and

WHEREAS, in the time she was given on Earth, Quinn Callahan Dunn was a blessing to her parents and to her brothers, Aidan and Euan, as well as to her loving grandparents, Cecil and Judy Dunn and Ted and Judi Callahan, and to the entirety of her extended family, who regarded her with untold affection; and

WHEREAS, even when manifold tragedies and sorrow seem to dominate Earthly affairs, the birth of a child still evokes a sense of hope for a world filled with peace and joy, as a child herself, through smiles and laughter, and through the love that we have for our children, reminds us of the best that can be found within ourselves;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express to the parents of Quinn Callahan Dunn, Patrick and Michelle Dunn, and to her brothers, Aidan and Euan, and to the entirety of her family, its most profound sense of sorrow at the loss of Quinn Callahan Dunn. The Senate cannot hope to discern the will of God when He calls one so little to be with Him, but knows that Quinn Callahan Dunn sleeps peacefully in His arms.

Section 2. The Clerk of the Senate is directed to transmit ten copies of this Resolution to Mr. and Mrs. Patrick Dunn, 4304 Windward Place, Louisville, Kentucky 40207.

Senator Harris moved to adopt **SR 29**. Agreed.

SR 29 is as follows:

SR 29, A RESOLUTION adjourning the Senate in loving memory and honor of Janie Ruth Gilliam Clore.

With deepest respect and admiration, we pay homage and tribute to Janie Ruth Gilliam Clore, and we pause in silent reverence for her soul.

WHEREAS, Janie Ruth Gilliam Clore was born on August 11, 1917, a native of Christian County, Kentucky, and she traversed these earthly bounds on November 28, 2004; and

WHEREAS, Janie Ruth Gilliam Clore was the dutiful daughter of Ramus Elden Gilliam, Sr. and Mary Chester Gant Gillaim; she was preceded in death by four brothers, Paul, Hugh, R.E. and William Alfred, and also preceded in death by her sister, Mary; she was the devoted wife of thirty-five years of Carl Perrin Clore, Jr.; she was the loving mother of a son and daughter, Mr. Lee Stanton Clore, Sr. and Carla Jane Clore Jones; and she was also the doting grandmother of six and a beloved great-grandmother of eleven; and

WHEREAS, Janie Ruth Gilliam Clore was an active and outgoing citizen in Oldham County, where she was a sixty-year member of the Crestwood Christian Church, a fifty-year member of the Crestwood Civic Club, and an active community benefactor through her efforts in the Meals on Wheels Program and as a twenty-five year volunteer at Baptist Hospital East; and

WHEREAS, the passing of Janie Ruth Gilliam Clore has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Janie Ruth Gilliam Clore, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Janie Ruth Gilliam Clore.

Section 3. The Clerk of the Senate is hereby directed to transmit 10 copies of this Resolution to Mr. Lee Clore, 6801 Highway 329, Crestwood, Kentucky 40014.

The President stated that all members present would be listed as co-sponsors on memorial resolutions.

Senator Buford moved to adopt **SR 20**. Agreed.

SR 20 is as follows:

SR 20, A RESOLUTION adjourning the Senate in loving memory and honor of Sergeant Christopher T. Heflin.

With deepest respect and admiration, we pay homage and tribute to Sergeant Christopher T. Heflin, and we pause in silent reverence for his soul.

WHEREAS, Christopher Todd Heflin was born October 8, 1978, a native of Paducah, McCracken County, Kentucky, and he traversed these earthly bounds November 16, 2004; and

WHEREAS, Christopher T. Heflin was the loving son of Melcasa Salsbury Ellis and David Heflin; he was the caring brother of Cory Heflin of Paducah, Josh Hicks of Paducah, and Lance Corporal Derek Ellis of Camp Lejeune, North Carolina, currently serving in the Marine Corps; and he also leaves behind proud grandparents, Marvin and Marie Salsbury of West Monroe, Louisiana, and many other loving family members; and

WHEREAS, Christopher T. Heflin graduated from Reidland High School in 1997 where he played football; and

WHEREAS, following high school, Christopher T. Heflin enlisted in the Marines and was dedicated to military service for eight years; during his career, he spent three years training reservists in weapons and equipment use with Company K, 3rd Battalion, 25th Marine Regiment in Moundsville, West Virginia; most recently, he served as a squad leader with the 3rd Battalion, 1st Marine Regiment, 1st Marine Division, I Marine Expeditionary Force based at Camp Pendleton, California; and

WHEREAS, Sergeant Christopher T. Heflin was deployed in June 2004 in support of Operation Iraqi Freedom; and

WHEREAS, on November 16, 2004, the life of Sergeant Christopher T. Heflin ended prematurely when an explosion occurred during enemy action in Al Anbar Province, Iraq; and

WHEREAS, Sergeant Christopher T. Heflin served his country with honor and distinction; during his service, he was awarded the Marine Corps Good Conduct Medal, the Navy and Marine Corps Achievement Medal, the Sea Service Deployment Ribbon, the Global War on Terrorism Expeditionary Medal, and the National Defense Service Medal; he was buried with full military honors and posthumously awarded the Purple Heart; and

WHEREAS, Christopher T. Heflin was an extremely cheerful and hardworking young man with a bright future; he had many interests including outdoor activities and the National Hockey League Association of Ohio; he was a member of Mount Zion Baptist Church in Paducah and an active participant in the Marine Corps Reserves Toys for Tots program; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Sergeant Christopher T. Heflin and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Sergeant Christopher T. Heflin has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Sergeant Christopher T. Heflin and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Sergeant Christopher T. Heflin.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to the mother of Sergeant Christopher T. Heflin, Ms. Meleasa Salsbury Ellis, 1901 Clark Street, Paducah, Kentucky 42003, and to the father of Sergeant Christopher T. Heflin, Mr. David Heflin, P.O. Box 7222, Paducah, Kentucky 42002.

Adjournment

Senator Kelly moved to adjourn the Senate until 2:00 p.m., Tuesday, February 1, 2005. Agreed.

TUESDAY, FEBRUARY 1, 2005
FIFTH LEGISLATIVE DAY

The Senate was called to order by President Williams.

Prayer by the Reverend Robert Strode, St. John AME Church, Frankfort.

The Pledge of Allegiance to the Flag was given.

The roll was called. All senators were present except Senator Stivers.

Senator Kelly moved to grant leave to the absent senator. Agreed.

Senator Kelly moved to approve the Journal of Friday, January 7, 2005. Agreed.

Motions, Petitions and Communications

Senator Kelly moved that **SB 37, SB 38, SB 39, SB 40, SB 41, SB 45, SB 46, SB 47**, and **SB 49** be taken from committee, given their first reading, placed on the Calendar for their second reading, to then be returned to their committees of origin. Agreed.

Senator Roeding presented Senate Citation No. 2 and moved its adoption. Agreed.

To All To Whom These Presents Shall Come, Greetings: Know ye that the members and coaching staff of Beechwood High School are welcomed to the Senate Chambers during a day in the 2005 Regular Session of the Kentucky General Assembly to be recognized for outstanding performance during the 2004 season that resulted in this talented group of athletes winning the KHSAA Class A State Championship title and finishing the season with an impressive record of 14-1. Inasmuch as this celebrated team has demonstrated such dedication and perseverance in pursuit of this worthwhile goal and has brought great honor to both school and community by the effort put forth in this significant endeavor, the members and coaching staff of the Beechwood High School Football Team are congratulated for the attainment of this notable accolade; are extended best wishes for continued monuments of success and good fortune; and, on the motion of Senator Richard L. Roeding and Senator Jack Westwood are hereby deemed by this honorable body most worthy of its recognition.

Done in Frankfort, Kentucky, this first day of February, in the year two thousand and five.

Senator Kelly moved to nominate Drew Thompson and Karen Ellestad as constitutional pages.

Senator Kelly moved that nominations cease and that Drew Thompson and Karen Ellestad be elected by acclamation. Agreed.

The oath of office was administered to the constitutional pages by Chief Clerk of the Senate Jay Hartz.

The President announced that pursuant to SR 6, Senators Harper Angel, Blevins, Stine, Winters, Kerr, and Harris had been appointed as the committee to wait upon the Governor.

Introduction of New Bills and Resolutions

SB 63, AN ACT relating to crimes and punishments, by Senator Stivers.

SB 64, AN ACT relating to mathematics and declaring an emergency, by Senator Kelly.

SB 65, AN ACT relating to reorganization, by Senator Kelly.

SB 66, AN ACT relating to reorganization, by Senator Kelly.

SB 67, AN ACT relating to recording of lien documents, by Senator Buford.

SB 68, AN ACT relating to grain, by Senator Winters.

SB 69, AN ACT changing the classification of the City of Prospect, in Jefferson County, by Senator Harris.

SB 70, AN ACT relating to the selection of school personnel, by Senator McGaha.

SB 71, AN ACT relating to children, by Senator McGaha.

SB 72, AN ACT relating to individual income tax, by Senators Pendleton, Worley, Ridley, Turner, Palmer, Harper Angel, Jones, Neal, Rhoads, Carroll, Boswell, Scorsone, Mongiardo, Shaughnessy, and Blevins.

SB 73, AN ACT relating to wineries, by Senator Tapp.

SB 74, AN ACT relating to charitable gaming, by Senator Tapp.

SB 75, AN ACT relating to enterprise zones, by Senator Boswell.

SB 76, AN ACT relating to the emergency medical services grant program, by Senator Denton.

SB 77, AN ACT relating to motorcycle safety education, by Senator Tapp.

SB 78, AN ACT relating to emergency medical services, by Senator Denton.

SB 79, AN ACT relating to the approval of a capital project, appropriating funds therefor, and declaring an emergency, by Senator Tori.

SB 80, AN ACT relating to Kentucky Retired Veterans Day, by Senator Tori.

SB 81, AN ACT relating to pornography, by Senator Tori.

SB 82, AN ACT relating to Vietnam veterans, by Senator Thayer.

SB 83, AN ACT relating to vote hauling, by Senator Thayer.

SB 84, AN ACT relating to transportation, by Senator Guthrie.

SB 85, AN ACT relating to county law libraries, by Senator Jones.

SB 86, AN ACT relating to workers' compensation self-insured groups and declaring an emergency, by Senator Kelly.

SB 87, AN ACT relating to crimes and punishments, by Senator Roeding.

SR 37, A RESOLUTION adjourning the Senate in loving memory and honor of Shirley Chisholm, by Senators Neal, Blevins, Palmer, Harper Angel, Turner, Worley, Jones, Mongiardo, and Ridley.

SR 38, A RESOLUTION honoring the Kentucky Association of Circuit Court Clerks, by Senator Stivers.

SR 39, A RESOLUTION honoring the Beechwood High School Football Tigers, 2004 KHSAA Class A Football State Champions, by Senators Westwood and Roeding.

SR 40, A RESOLUTION in support of the United States Armed Forces and President George W. Bush for their steadfast efforts in protecting our nation and fighting terror, by Senator Thayer.

SR 41, A RESOLUTION adjourning the Senate in loving memory and honor of Daniel Raymond Gordon, by Senator Thayer.

SR 42, A RESOLUTION memorializing Louis T. Peniston and adjourning the Senate in his honor, by Senator Harris.

SR 43, A RESOLUTION relating to the promotion and preservation of the Trail of Tears National Historic Trail, by Senators Ridley and Pendleton.

SR 44, A RESOLUTION adjourning the Senate in loving memory and honor of Harry Rosenberg, by Senator Scorsone.

SR 45, A RESOLUTION adjourning the Senate in loving memory and honor of Michael Laine Allen, by Senator Scorsone.

SR 46, A RESOLUTION adjourning the Senate in loving memory and honor of Sidney Belle Johnson, by Senator Scorsone.

SR 47, A RESOLUTION recognizing March as Sexual Assault Awareness Month in Kentucky and honoring Kentucky's thirteen regional rape crisis centers, by Senators Scorsone and Mongiardo.

SR 48, A RESOLUTION confirming the appointment of Randall G. Phillips to the Kentucky Board of Tax Appeals, by Senator Williams.

SR 49, A RESOLUTION confirming the appointment of Nancy R. Mitchell to the Kentucky Board of Tax Appeals, by Senator Williams.

SR 50, A RESOLUTION confirming the reappointment of Richard M. Joiner as an administrative law judge in the Department of Workers' Claims, by Senator Williams.

SR 51, A RESOLUTION confirming the appointment of John W. Thacker as an administrative law judge in the Department of Workers' Claims, by Senator Williams.

SR 52, A RESOLUTION confirming the appointment of Marcus Stephen Carey to the Kentucky Board of Tax Appeals, by Senator Williams.

SR 53, A RESOLUTION confirming the appointment of Jeanetta Lee Massey as a part-time member of the Kentucky Parole Board, by Senator Williams.

SR 54, A RESOLUTION confirming the appointment of Andrew F. Manno as an administrative law judge in the Department of Workers' Claims, by Senator Williams.

SR 55, A RESOLUTION consenting to the appointment of William Gregory Coker as a commissioner of the Public Service Commission, by Senator Williams.

SR 56, A RESOLUTION confirming the appointment of Mark Douglas Gibson as a member of the Kentucky Parole Board, by Senator Williams.

SR 57, A RESOLUTION confirming the appointment of Theodore R. Kuster as a member of the Kentucky Parole Board, by Senator Williams.

SR 58, A RESOLUTION confirming the appointment of Thomas Davis as an administrative law judge in the Department of Workers' Claims, by Senator Williams.

SR 59, A RESOLUTION memorializing James L. Meagher, by Senators Williams, Denton, Seum, Tori, Shaughnessy, Harper Angel, Neal, Harris, and Tapp.

SR 60, A RESOLUTION recognizing the third Saturday in May as Friedreich's Ataxia Awareness Day, by Senator

Roeding.

SR 61, A RESOLUTION adjourning the Senate in loving memory and honor of Carroll Roberts, by Senators Boswell, Rhoads, Blevins, Buford, Harper Angel, Leeper, Mongiardo, Pendleton, Shaughnessy, Turner, and Worley.

SB 88, AN ACT relating to local government referendums, by Senator Seum.

SB 89, AN ACT relating to peace officers, by Senator Tori.

SB 90, AN ACT relating to traffic regulations, by Senator Carroll.

SB 91, AN ACT relating to crimes and punishments, by Senator Denton.

Motions, Petitions and Communications (cont.)

Senator Kelly moved to suspend the rules for the first reading of **SB 37, SB 38, SB 39, SB 40, SB 41, SB 45, SB 49, SB 46**, and **SB 47** by the Clerk and that they be placed in the Calendar. Agreed.

SB 37 was read for the first time by title and sponsor only and placed in the Calendar

SB 37 is as follows:

SB 37, AN ACT relating to reorganization.

WHEREAS, Abraham Lincoln, the sixteenth President of the United States, was one of this nation's most outstanding leaders and a native son of this Commonwealth; and

WHEREAS, Abraham Lincoln was born near Hodgenville, Kentucky, on February 12, 1809, to Thomas and Nancy Hanks Lincoln, and rose from humble circumstances to steer this nation through the Civil War, one of the greatest crises of its history; and

WHEREAS, President Lincoln was instrumental in ending slavery in these United States; and

WHEREAS, in 2009, this nation will celebrate the bicentennial of Abraham Lincoln's birth; and

WHEREAS, the United States Congress has passed legislation to create the Abraham Lincoln Bicentennial Commission to study and recommend suitable federal activities to honor Abraham Lincoln during his bicentennial year; and

WHEREAS, it is appropriate for the Commonwealth of Kentucky to plan and carry out its own bicentennial tributes to Abraham Lincoln, and to coordinate those activities with those of the federal government;

NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

There is created the Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission, which shall be attached to the Kentucky Historical Society for administrative purposes. The commission shall be composed of twenty (20) members, as follows:

(1) Two (2) members of the House of Representatives, appointed by the Speaker of the House;

(2) Two (2) members of the Senate, appointed by the President of the Senate;

(3) The secretary of the Education, Arts, and Humanities Cabinet, or his or her designee;

(4) One (1) member from the Tourism Development Cabinet, appointed by the secretary of that cabinet;

(5) One (1) member from the Kentucky Historical Society, appointed by the director of that agency;

(6) One (1) member from the Kentucky Heritage Council, appointed by the executive director of that agency;

(7) One (1) member from the Kentucky African-American Heritage Commission, appointed by the head of that agency;

(8) One (1) member from the Kentucky Humanities Council, appointed by the executive director of that agency;

(9) One (1) member from the Abraham Lincoln Bicentennial Commission established by the United States Congress, appointed by the concurrence of the chairs of that agency;

(10) The Larue County judge/executive, or his or her designee;

(11) One (1) member from the Abraham Lincoln Birthplace, appointed by the superintendent of that national historic site;

(12) One (1) member from the Lincoln Museum in Hodgenville, appointed by the president of that agency;

(13) One (1) member from the Mary Todd Lincoln House in Lexington, appointed by the head of that agency;

(14) One (1) member from the Farmington Historic Home museum in Louisville, appointed by the head of that agency; and

(15) Four (4) citizen members from the state at large with a demonstrated interest in history and substantial knowledge and appreciation of Abraham Lincoln, appointed by the Governor.

The chair of the commission shall be elected from among the membership by the commission members.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission shall:

(1) Study and recommend activities that may be carried out by the Commonwealth of Kentucky to honor Abraham Lincoln on the occasion of the bicentennial anniversary of his birth;

(2) Educate Kentucky residents and the nation about the life of Abraham Lincoln during the years he resided in and visited the state in which he was born;

(3) Assist local governments and organizations with planning, preparation, and grant applications for bicentennial events and projects;

(4) Coordinate federal, state, and local bicentennial activities occurring in Kentucky;

(5) Plan and implement appropriate events, including celebrations and educational initiatives, to commemorate the bicentennial;

(6) Perform other duties as necessary to highlight Kentucky's role in the life of Abraham Lincoln; and

(7) Seek federal grants and philanthropic support for bicentennial activities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission shall expire on June 30, 2010.

Section 4. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 5. The General Assembly hereby confirms Executive Order 2004-616, dated June 18, 2004, to the extent it is not otherwise confirmed or superseded by this Act.

SB 38 was read for the first time by title and sponsor only and placed in the Calendar.

SB 38 is as follows:

SB 38, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Auditor of Public Accounts.
II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.

(b) Department of Criminal Justice Training.
(c) Department of Corrections.
(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) Offices of the Deputy Secretaries.
(g) Office of General Counsel.
(h) Division of Kentucky State Medical Examiners Office.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
   (a) Department of Education.
      (1) Kentucky Board of Education.
   (b) Department for Libraries and Archives.
   (c) Kentucky Arts Council.
   (d) Kentucky Educational Television.
   (e) Kentucky Historical Society.
   (f) Kentucky Teachers' Retirement System Board of Trustees.
   (g) Kentucky Center for the Arts.
   (h) Kentucky Craft Marketing Program.
   (i) Kentucky Commission on the Deaf and Hard of Hearing.
   (j) Governor's Scholars Program.
   (k) Governor's School for the Arts.
   (l) Operations and Development Office.
   (m) Kentucky Heritage Council.
   (n) Kentucky African-American Heritage Commission.
   (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
   (a) Environmental Quality Commission.
   (b) Kentucky Nature Preserves Commission.
   (c) Department for Environmental Protection.
   (d) Department for Natural Resources.
   (e) Department for Surface Mining Reclamation and Enforcement.
   (f) Office of Legal Services.
   (g) Office of Information Services.
   (h) Office of Inspector General.
4. Transportation Cabinet:
   (a) Department of Highways.
      1. Office of Program Planning and Management.
      2. Office of Project Development.
      3. Office of Construction and Operations.
      4. Office of Intermodal Programs.
      5. Highway District Offices One through Twelve.
   (b) Department of Vehicle Regulation.
   (c) Department of Administrative Services.
   (d) Department of Fiscal Management.
   (e) Department of Rural and Municipal Aid.
   (f) Department of Human Resources Management.

(g) Office of the Secretary.
(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
(a) ***Office***[~~Department~~] of Administration and Support.
(b) Department for ***New*** Business Development.
(c) Department of Financial Incentives.
(d) Department ***for Existing Business***[~~of Community~~] Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.
(h) Office of Research and Information Technology.
(i) Department of Innovation and Commercialization for a Knowledge Based Economy.

6. Environmental and Public Protection Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Horse Racing Authority.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Office of Petroleum Storage Tank Environmental Assurance Fund.
(m) Department of Charitable Gaming.
(n) Mine Safety Review Commission.

7. Cabinet for Families and Children:
(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
    (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Human Resource Management.

8. Cabinet for Health Services.
(a) Department for Public Health.

(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

9. Finance and Administration Cabinet:
    (a) Office of Financial Management.
    (b) Office of the Controller.
    (c) Department for Administration.
    (d) Department of Facilities Management.
    (e) State Property and Buildings Commission.
    (f) Kentucky Pollution Abatement Authority.
    (g) Kentucky Savings Bond Authority.
    (h) Deferred Compensation Systems.
    (i) Office of Equal Employment Opportunity Contract Compliance.
    (j) Office of Capital Plaza Operations.
    (k) County Officials Compensation Board.
    (l) Kentucky Employees Retirement Systems.
    (m) Commonwealth Credit Union.
    (n) State Investment Commission.
    (o) Kentucky Housing Corporation.
    (p) Governmental Services Center.
    (q) Kentucky Local Correctional Facilities Construction Authority.
    (r) Kentucky Turnpike Authority.
    (s) Historic Properties Advisory Commission.
    (t) Kentucky Tobacco Settlement Trust Corporation.
    (u) Eastern Kentucky Exposition Center Corporation.
    (v) State Board for Proprietary Education.

10. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Information Technology.
    (m) Office of Labor-Management Relations and Mediation.
    (n) Office of General Counsel.
    (o) Workers' Compensation Funding Commission.
    (p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
    - (a) Department of Property Valuation.
    - (b) Department of Tax Administration.
    - (c) Office of Financial and Administrative Services.
    - (d) Department of Law.
    - (e) Department of Information Technology.
    - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
    - (a) Department of Travel.
    - (b) Department of Parks.
    - (c) Department of Fish and Wildlife Resources.
    - (d) Kentucky Horse Park Commission.
    - (e) State Fair Board.
    - (f) Office of Administrative Services.
    - (g) Office of General Counsel.
    - (h) Tourism Development Finance Authority.
13. Cabinet for Workforce Development:
    - (a) Department for Adult Education and Literacy.
    - (b) Department for Technical Education.
    - (c) Department of Vocational Rehabilitation.
    - (d) Department for the Blind.
    - (e) Department for Employment Services.
    - (f) Kentucky Technical Education Personnel Board.
    - (g) The Foundation for Adult Education.
    - (h) Department for Training and Reemployment.
    - (i) Office of General Counsel.
    - (j) Office of Communication Services.
    - (k) Office of Workforce Partnerships.
    - (l) Office of Workforce Analysis and Research.
    - (m) Office of Budget and Administrative Services.
    - (n) Office of Technology Services.
    - (o) Office of Quality and Human Resources.
    - (p) Unemployment Insurance Commission.
14. Personnel Cabinet:
    - (a) Office of Administrative and Legal Services.
    - (b) Department for Personnel Administration.
    - (c) Department for Employee Relations.
    - (d) Kentucky Public Employees Deferred Compensation Authority.
    - (e) Kentucky Kare.
    - (f) Division of Performance Management.
    - (g) Division of Employee Records.
    - (h) Division of Staffing Services.
    - (i) Division of Classification and Compensation.
    - (j) Division of Employee Benefits.
    - (k) Division of Communications and Recognition.
    - (l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 2. KRS 154.12-214 is amended to read as follows:

As used in KRS 154.12-215 to 154.12-220, unless the context otherwise requires:

(1) "Council" means the Small Business Advisory Council as established in KRS 154.12-218;

(2) "Small business" means a business entity organized for profit, including but not limited to any individual partnership, registered limited liability partnership, corporation, limited liability company, joint venture, association or cooperative, which entity:

(a) Is not an affiliate or subsidiary of a business dominant in its field of operation; and

(b) Has twenty (20) or fewer full-time employees or no more than the equivalent of one million dollars ($1,000,000) in annual gross revenues in the preceding fiscal year;

(3) "Clearinghouse" means the business information clearinghouse program of the ~~[division of business and entrepreneurship development in the]~~Department ***for Existing Business***~~[of Community]~~ Development;

(4) "Manager" means the administrator of the clearinghouse program;

(5) "Master application" means the document designed by the clearinghouse for public use in supplying all information necessary for individual state agency approval for licenses the Commonwealth requires for any person subject to the provisions of KRS 154.12-215 to 154.12-220;

(6) "Master license" means the document designed for public display issued by the clearinghouse which authorizes individual state agency approval for licenses the state requires for any person subject to the provisions of KRS 154.12-215 to 154.12-220;

(7) "License" means any agency permit, license, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any business activity;

(8) "Issuing agency" means any organizational unit of state government legally authorized to issue, suspend, continue in effect, revoke or enforce any license;

(9) "Grocery store" means any retail business that derives fifty percent (50%) or more of its gross receipts from the sale of food products, beverages and common household goods except those businesses selling exclusively fully prepared foodstuffs;

(10) "Business" means any operation required to have a sales and use tax permit pursuant to KRS Chapter 139; and

(11) "Work team" means a group of individuals assembled to study and make recommendations on the administration of a license and shall include representation from the issuing agency, the regulated industry, and representatives that have experience in the administration of licenses, but no vested interest in the particular license that is being considered.

Section 3. KRS 154.12-215 is amended to read as follows:

(1) The duties of the Department ***for Existing Business***~~[of Community]~~ Development shall include but not be limited to:

(a) Collecting, summarizing, and disseminating information helpful to minority businesses, including information on:

1. Market research;
2. New business opportunities;
3. Federal, state, and local minority business programs; and
4. The availability of managerial assistance programs within the state educational system;

(b) Assisting minority businesses with federal, state, and local government agencies, regulations, and procurement programs.

(c) Providing staff assistance to the council;

(d) Providing information on federal, state, and local small business programs and regulations;

(e) Making referrals to managerial assistance programs within the state educational system; and

(f) Introducing entrepreneurs to individual investors and to investment capital firms interested in start-up and early-stage financing.

(2) The commissioner is designated a small business ombudsman and shall:

(a) Receive and refer complaints of small business to the council and the appropriate administrative bodies;

(b) Coordinate the activities of all administrative bodies performing functions affecting the operation of small business in the Commonwealth;

(c) Represent the interests of the council and small businesses in the Commonwealth before federal, state, and local administration and regulatory agencies; and

(d) Prepare an annual report of the activities and recommendations of the council and submit the report to the Governor and the appropriate legislative committee having jurisdiction over small business matters.

Section 4. KRS 154.12-216 is amended to read as follows:

(1) There is established in the Division of ***Small*** Business ***Services***[~~and Entrepreneurship Development~~] in the Department ***for Existing Business***[~~of Community~~] Development a Business Information Clearinghouse Program.

(2) [~~By January 1, 1985,~~]The clearinghouse shall develop and maintain a current list of all licenses arranged by the Standard Industrial Classification (SIC) developed by the United States Department of Labor or similar classification system as may be developed by the clearinghouse.

(3) The clearinghouse shall, to the extent possible, develop and distribute informational packets for each business classification. The informational packet for each business classification shall include applications, fee schedules, and informational bulletins for the licenses most commonly required of businesses within that classification.

(4) The clearinghouse shall provide a toll-free telephone and referral service for the entire Commonwealth to aid new and continuing businesses with the licensing process.

(5) The clearinghouse shall maintain current information on other agencies' programs that provide business financing and management assistance and shall serve as a referral service to those programs to the staff of the Regulatory Expediting Center as established in KRS 154.12-240.

(6) The manager shall encourage federal and local governments to participate by submitting copies of application forms for licenses applicable to businesses in the Commonwealth.

(7) Work teams may be assembled at the request of the issuing agency, the regulated industry, the Governor, or the General Assembly. The clearinghouse and issuing agency shall coordinate the activities of and provide staff assistance to any work teams. Members of the work teams shall serve without compensation.

(8) The clearinghouse shall prepare an annual report summarizing its work for the Governor and the General Assembly. The report shall include a list of all licenses arranged by business classification and agency, the reports of any work teams, and may include recommendations on necessary statute or regulation changes to enable agencies to simplify or consolidate regulatory activities.

Section 5. KRS 154.12-218 is amended to read as follows:

(1) There is established a Small Business Advisory Council which shall serve in an advisory capacity to the Department ***for Existing Business***[~~of Community~~] Development.

(2) The council shall be composed of ten (10) members who are officers or representatives of small businesses. The members of the council shall be appointed by the Governor for four (4) year terms, except that five (5) of the initial members shall be appointed for two (2) year terms. Members may be reappointed.

(3) Members of the council shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the council.

(4) The council shall meet as soon as practicable after the initial ten (10) members are appointed, and thereafter shall meet at least twice a year and at the call of the director. The council shall annually elect one (1) of its members to serve as chairman.

(5) The council shall:

(a) Serve as a source of expertise and information on small businesses to the department;

(b) Keep the department informed with respect to problems of, and matters affecting, small businesses;

(c) Advise the department, upon request of the department, with respect to any matters relating to small businesses.

Section 6. KRS 154.12-223 is amended to read as follows:

(1) There is created within the Cabinet for Economic Development the Department ***for Existing Business***[~~of Community~~] Development, which shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall work with each Kentucky county in:

(a) Determining a long-range plan for economic development which best meets the individual county's needs; and

(b) Developing cooperative interaction with existing industries and small and minority businesses and assisting export development.

(2) The Department ***for Existing Business***[~~of Community~~] Development shall include the following divisions, each of which

shall be headed by a director appointed by the secretary pursuant to KRS 12.050:

(a)[~~ The Division of Business and Entrepreneurship Development, which shall be responsible for procurement assistance, business information clearinghouse services, and business and technology functions of the cabinet, including, without being limited to:~~

~~1. Providing comprehensive information on all state business licenses and requirements;~~

~~2. Developing and administering a master application and licensure program for grocery stores;~~

~~3. Coordinating and monitoring the various activities being carried out by state agencies that relate to adapting advanced technologies to the workplace; and~~

~~4. Reviewing and analyzing the possibility of establishing research and technology centers in the Commonwealth;~~

~~(b)~~] The Small[~~ and Minority~~] Business ***Services*** Division, which shall be responsible for the cabinet's functions relating to small and minority business enterprise, as provided in KRS 154.12-215. The Small Business Advisory Council established by KRS 154.12-218 shall advise the division;

(b)[~~(c)~~]The Western Kentucky Economic Development Division;

(c)[~~(d)~~]The Eastern Kentucky Economic Development Division;

(d)[~~(e)~~]The Central Kentucky Economic Development Division; and

(e)[~~(f)~~] The International Trade Division, which shall promote the development of international markets for Kentucky goods, products, and services for the purpose of identifying and analyzing national and international market developments and opportunities, and gathering and disseminating vital information to Kentucky manufacturers, service providers, and other industries regarding international trade opportunities.

(3) The following programs and commission shall be attached to the Department ***for Existing Business***[~~of Community~~] Development:

(a) The Kentucky port and river development program created by KRS 65.510 to 65.530, KRS 139.483, and KRS 154.80-100 to 154.80-130;

(b) The Waterway Marina Development Program established by KRS 154.80-310; and

(c) The Kentucky Investment Capital Network established by KRS 154.12-2333.

Section 7. KRS 154.12-2333 is amended to read as follows:

(1) There is established within the Department ***for Existing Business***[~~of Community~~] Development the Kentucky Investment Capital Network.

(2) The purpose of the Kentucky Investment Capital Network is to introduce entrepreneurs to profit and nonprofit investors interested in start-up and early-stage financing.

(3) The Kentucky Investment Capital Network shall, to the extent possible:

(a) Maintain a data base of investment-opportunities profiles submitted by entrepreneurs and investment-interest profiles submitted by investors;

(b) Make available its services to the general public, including the use of on-line Internet electronic communication;

(c) Distribute investor and entrepreneur applications in paper form and through electronic resources;

(d) Serve as a screening mechanism through which introductions can be made between businesses and potential investors;

(e) Aid prospective companies in presenting their ventures to investors if aid is requested; and

(f) Emphasize entrepreneurs whose ventures will create employment opportunities in small and rural communities where job development is greatly needed.

(4) The Kentucky Investment Capital Network shall submit an annual report to the Governor and the General Assembly detailing its work, including, but not limited to, the total number of entrepreneurs and investors registered, the number of new entrepreneur and investor registrants for the year, the number of successful matches during the year, and the amount of start-up and early-stage financing made available to entrepreneurs during the year.

Section 8. KRS 154.12-222 is amended to read as follows:

(1) There is created within the Cabinet for Economic Development the ***Office***[~~Department~~] of Administration and Support***, to be attached to the Office of the Secretary***[~~. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall provide cabinet-wide support in fiscal management, information resources, personnel support, budgetary implementation and control, and research development~~].

(2) The ***Office***[~~Department~~] of Administration and Support shall include ***a Division of Finance and Personnel with two (2) branches***:

(a) The ***Fiscal Management Branch***[~~Office of Information Resources to be headed by an executive director appointed~~

~~in accordance with KRS 12.050~~]; and

(b) The ***Personnel and Payroll Branch***[~~following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:~~

~~1. The Division of Administrative Services, which shall be responsible for fiscal management, personnel, and payroll functions; and~~

~~2. The Division of Research, which shall be responsible for general research, economic development library, map sales, and community brochures activities~~].

Section 9. KRS 154.12-225 is amended to read as follows:

(1) There is created within the Cabinet for Economic Development the Department for *New* Business Development. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall coordinate the recruitment of industries that will enhance the overall viability of Kentucky's economy.

(2) The Department for *New* Business Development shall include the ***Industrial Development Division***[~~following divisions~~],[~~ each of~~] which shall be headed by a director appointed by the secretary pursuant to KRS 12.050[~~:~~

~~(a) The Industrial Development Division; and~~

~~(b) The Site Evaluation Division~~].

(3) Kentucky's representative development offices located in other states and countries shall be assigned to the Department for *New* Business Development.

Section 10. KRS 154.12-278 is amended to read as follows:

(1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in KRS 164.6011.

(2) There is established the ***Department of Innovation and Commercialization for a Knowledge Based***[~~Office for the New~~] Economy in the Cabinet for Economic Development.[~~ Notwithstanding KRS 154.10-050, the Governor shall nominate the commissioner of the Office for the New Economy, who shall be approved by the Kentucky Economic Development Partnership.~~]

(3) The duties of the ***Department of Innovation and Commercialization for a Knowledge Based***[~~Office for the New~~] Economy shall include but not be limited to:

(a) Implement the Kentucky Innovation and Commercialization Center Program as set forth in KRS 154.12-300 to 154.12-315;

(b) Monitor the return on investments and effectiveness of the Kentucky Innovation Act initiatives as set forth in the Strategic Plan for the New Economy as approved by the Kentucky Innovation Commission, January 7, 2002, or as revised, and report annually prior to November 1 to the Kentucky Innovation Commission, the Governor, and the General Assembly;

(c) Oversee the modernization initiative in KRS 154.12-274;

(d) Assist the cabinet in the recruitment of research and development companies;

(e) Assist the cabinet in the attraction of high-technology research and development centers;

(f) Support growth and creation of knowledge-based, innovative companies;

(g) Build the infrastructure for the new economy businesses and promote networks of technology-driven clusters and research intensive industries;

(h) Administer the high-tech construction pool and the high-tech investment pool;

(i) Recommend projects to the Kentucky Economic Development Finance Authority for funding through the high-tech construction pool and high-tech investment pool; and

(j) Review and approve the annual plan which details the annual allocation of funds from the Science and Technology Funding Program, prior to the Council on Postsecondary Education executing a contract with the science and technology organization to administer science and technology funding programs. As used in this paragraph, the Science and Technology Funding Program means the Kentucky Rural Innovation Program, the Kentucky Research and Development Voucher Program, the Kentucky Commercialization Program, The Regional Technology Corporations/Innovation and Commercialization Center Satellites, and the Experimental Program to Stimulate Competitive Research/Kentucky Science and Engineering Foundation.

(4) The high-tech construction pool shall be used for projects with a special emphasis on the creation of high-technology jobs and knowledge-based companies. The commissioner, in administering the high-tech construction pool, shall recommend distribution of funds and projects to the Kentucky Economic Development Finance Authority for its approval. The commissioner shall recommend any designated amount of pool funds to be set aside for any match requirements. Any funds used for matching purposes may include public and private funds.

(5) The high-tech investment pool shall be used to build and promote technology-driven industries and research-intensive industries, as well as their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky. The commissioner, in administering the high-tech investment pool, shall be authorized to recommend funds to be used to

support loans and grants, or to secure an equity or related position.

(6) The Kentucky Economic Development Finance Authority shall assure in their approval of funding of projects that the highest priority is given to knowledge-based companies in fulfillment of the purposes and intentions of the purposes of this section.

Section 11. KRS 154.12-300 is amended to read as follows:

As used in KRS 154.12-300 to 154.12-315, unless the context indicates otherwise:

(1) "Affiliate" means an ICC identified as the headquarters for program activity in a region or subregion;

(2) "Commissioner" means the commissioner of the ***Department of Innovation and Commercialization for a Knowledge Based***[~~Office for the New~~] Economy established in KRS 154.12-278;

(3) "ICC" means the Kentucky Innovation and Commercialization Center;

(4) "Region" means a geographic area of Kentucky designated as having a unique innovation strategic plan by the ***Department of Innovation and Commercialization for a Knowledge Based***[~~Office for the New~~] Economy; and

(5) "Satellite" means an office of an affiliate in a region.

Section 12. KRS 154.12-305 is amended to read as follows:

(1) There is established the Kentucky Innovation and Commercialization Center Program within the ***Department of Innovation and Commercialization for a Knowledge Based***[~~Office for the New~~] Economy. The goal of the ICC program is to create products, new companies, and value-added jobs in communities throughout the Commonwealth. Strategies to achieve this goal include:

   (a) Increasing quality deal flow of technology-based firms in Kentucky;

   (b) Increasing understanding of start-up process and investment practices; and

   (c) Providing value-added services to the start-up and investment community.

(2) The duties of the ICC program shall include but not be limited to:

   (a) Identifying and linking entrepreneurs, faculty, scientists, venture capitalists, and other key individuals from the business sector, universities, community and technical colleges, local leaders, and government for the creation and expansion of knowledge-based companies;

   (b) Establishing a uniform protocol for assembling and communicating project concepts and opportunities;

   (c) Supporting high-quality projects through the concept and development phases including services such as market research, prototype development, business plan and strategies development, grant and contract capabilities, and capital and management resource identification; and

   (d) Identifying, in the area of technology development, potential partners, strategic opportunities, training and educational needs, and issues that inhibit the growth of technology sectors and business clusters in the state.

Section 13. KRS 154.20-254 is amended to read as follows:

As used in KRS 154.20-250 to 154.20-284, unless the context clearly requires otherwise:

(1) "Affiliate" means any person or entity who directly or indirectly, through one (1) or more intermediaries, controls or is controlled by or is under common control with another person or entity;

(2) "Agreement" means an investment fund agreement entered into pursuant to KRS 154.20-255(5) by the authority and an investment fund manager on behalf of the investment fund, the investment fund manager, and any investor in the investment fund;

(3) "Amended application" means a document submitted by an investment fund manager, in a form acceptable to the authority and on behalf of an investment fund, for the purpose of increasing the aggregate amount of available tax credits;

(4) "Applicant" means any person or entity who has not received approval from the authority as an investment fund manager, but who has submitted or will submit an application to the authority for approval as an investment fund manager;

(5) "Authority" means the Kentucky Economic Development Finance Authority or its designee;

(6) "Cash contribution" means an investment of money by an investor in an investment fund under the terms of KRS 154.20-250 to 154.20-284;

(7) "Committed cash contribution" means a legally binding agreement by an investor to make a cash contribution in an amount set forth in a written agreement between an investor and an investment fund;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Credit" means a nonrefundable credit for investors against state tax liability allocated and granted by the authority pursuant to KRS 154.20-258 for qualified investments made by approved investment funds;

(10) "Entity" means any corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

(11) "Financial institution" means "financial institution" as defined in KRS 136.500(10) and includes savings and loan associations, savings banks, and similar institutions subject to the taxes imposed by KRS 136.290, 136.300, or 136.310;

(12) "Insurance company" means any insurance company subject to the taxes imposed by KRS 136.320, 136.330, or 304.3-270;

(13) "Investment fund" means any entity that is organized by an investment fund manager in compliance with applicable state and federal securities laws and regulations, and is approved by the authority to make qualified investments pursuant to KRS 154.20-256;

(14) "Investment fund manager" means any person or entity that has been approved by the authority to manage one (1) or more investment funds authorized under the provisions of KRS 154.20-250 to 154.20-284 and is in compliance with all applicable federal and state regulations;

(15) "Investor" means any person or entity, including financial institutions and insurance companies, that is subject to state tax liability and that makes a cash contribution or a committed cash contribution to an investment fund in accordance with the provisions of KRS 154.20-250 to 154.20-284 and has not been convicted of violating any of Kentucky's tax laws within the past ten (10) years;

(16) "Nonprofit entity" means an investor that is exempt from federal income tax under Section 501(c) of the Internal Revenue Code of 1986, as amended;

(17) "Qualified activity" means any industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, agricultural enterprise, or agribusiness activity. A "qualified activity" does not include any activity principally engaged in by financial institutions, commercial development companies, credit companies, financial or investment advisors, brokerage or financial firms, other investment funds or investment fund managers, charitable and religious institutions, oil and gas exploration companies, insurance companies, residential housing developers, retail establishments, or any activity that the authority determines in its discretion to be against the public interest, against the purposes of KRS 154.20-250 to 154.20-284, or in violation of any law;

(18) "Qualified investment" means an investment of money in a small business by an investment fund, in compliance with applicable state and federal securities laws and regulations, seeking a financial return based upon that consideration. In consideration for the qualified investment, the investment fund shall receive an equity interest in the small business, such as a general or limited partnership interest, common or preferred stock with or without voting rights and without regard to seniority position, forms of subordinate or convertible unsecured debt, or both, with warrants, rights, or other means of equity conversion attached; and

(19) "Small business" means any entity which at the time a qualified investment is made by an investment fund:

(a) 1. Has a net worth of five million dollars ($5,000,000) or less or net income after federal income taxes for each of the two (2) preceding fiscal years of three million dollars ($3,000,000) or less; or

2. Is a knowledge-based business, as shall be prescribed by the commissioner of the ***Department of Innovation and Commercialization for a Knowledge Based***[~~Office for the New~~] Economy, and has a net worth of ten million dollars ($10,000,000) or less;

(b) Is actively and principally engaged in a qualified activity within the Commonwealth, or will be actively and principally engaged in a qualified activity within the Commonwealth after the receipt of a qualified investment by an investment fund;

(c) Has no more than one hundred (100) employees; and

(d) Has more than fifty percent (50%) of its assets, operations, and employees located in Kentucky.

Section 14. KRS 164.6015 is amended to read as follows:

(1) There is established the Kentucky Innovation Commission, as an independent advisory commission, consisting of fifteen (15) members as follows:

(a) The Governor or designee;

(b) The secretary of the Governor's Executive Cabinet or designee;

(c) The secretary of the Cabinet for Economic Development or designee;

(d) The president of the Council on Postsecondary Education or designee;

(e) The state budget director or designee;

(f) The Speaker of the House or designee;

(g) The President of the Senate or designee; and

(h) Eight (8) at-large members appointed by the Governor as follows:

1. Four (4) members of the private sector possessing extensive experience and expertise relating to managing a high-technology business or engaging in an innovation-driven, knowledge-based enterprise;

2. One (1) member engaged in the business of venture capital;

3. One (1) member of the private sector possessing extensive experience and expertise relating to providing or supporting communications infrastructure; and

4. Two (2) members who are engineers or scientists recognized for their scientific or technological research efforts, or educators with an interest or background in teaching students to become highly skilled workers or entrepreneurs.

(2) The eight (8) at-large members shall serve terms of four (4) years, except that the original appointments shall be staggered so that two (2) appointments shall expire at two (2) years, three (3) appointments shall expire at three (3) years, and three (3) appointments shall expire at four (4) years from the dates of initial appointment.

(3) The commission shall meet quarterly and at other times upon call by the chair.

(4) Eight (8) members shall constitute a quorum for conducting business.

(5) Members shall receive no compensation except that the at-large members shall be reimbursed for actual and necessary travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

(6) Vacancies shall be filled in the same manner as the original appointment.

(7) The chair and vice chair of the commission shall be appointed by the Governor.

(8) The commission shall provide ongoing advice, direction, and policy recommendations to the Governor and the General Assembly relating to the status of Kentucky knowledge-driven businesses, research and development initiatives, and related high-skill training and education in the Commonwealth.

(9) The duties and responsibilities of the commission shall be to:

(a) Promote the cooperation of private and public entities that have the purpose and duty of advancing the knowledge-based economy in the Commonwealth through technological innovation and knowledge transfer;

(b) Report on the progress the Commonwealth has made annually toward achieving the goals in KRS 164.6013 through its agreed-upon benchmarks. In the setting of benchmarks the commission shall consider performance indicators recommended by public and private experts in and outside of the state in the fields of research and development and economic development, for the purpose of recommending benchmarks. Experts in this state shall include but not be limited to representatives from the universities undertaking research and development activities, representatives of the Kentucky Science and Technology Corporation, representatives of targeted technology sectors, representatives of the Cabinet for Economic Development, and representatives of other state agencies having economic development and information technology responsibilities. Outside state experts shall include nationally recognized independent reviewers to assess the competitiveness of technology sectors in this state and the impact of research and development activities on economic development in the Commonwealth. Quantitative and qualitative indicators may include but are not limited to the following:

1. Kentucky companies modernizing to become more technologically innovative and globally competitive;

2. Research and development initiatives undertaken at Kentucky universities with federal, state, or private funds;

3. Educational attainment in areas that support the workforce needs of information technology and high-growth knowledge industries;

4. High-technology sectors and companies moving to and operating in the state;

5. Patents filed for technology or knowledge-based commercial products, processes, or services;

6. Businesses using electronic commerce and the communications infrastructure access capacity for Kentucky businesses;

7. Growth in corporate headquarters, research and development centers, high-income employees, and clustering of related technology industries and suppliers; and

8. Monitoring reports indicating progress made by the Kentucky Innovation Act investments as reported by the ***Department of Innovation and Commercialization for a Knowledge Based***[~~Office for the New~~] Economy and the Council on Postsecondary Education;

(c) Operate as a common strategic umbrella to advocate for the use of federal, state, local government, and private sector funds to create research and development projects, modernize manufacturing facilities, and promote knowledge-based, technology sectors and companies in the Commonwealth; and

(d) Report to the Governor and to the General Assembly annually on performance indicators, recommending benchmarks for measuring progress toward the advancement of the knowledge-based economy, technological innovation, and knowledge transfer, and reporting on the programs and initiatives set forth in KRS 164.6019 to 164.6041, 154.12-274, 154.12-278, and KRS 154.12-300 to 154.12-315.

(10) The support staff for the commission shall be from the office of the state budget director.

Section 15. KRS 164.6017 is amended to read as follows:

(1) The Council on Postsecondary Education shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 164.6019 to 164.6041, including but not limited to:

(a) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities; and

(b) Soliciting, borrowing, accepting, receiving, and expending funds from any public or private source, including but not limited to general fund appropriations of the Commonwealth, grants or contributions of money, property, labor, or other things of value to be used to carry out the programs' operations, functions, and responsibilities; and

(c) Notwithstanding the provisions in paragraph (a) of this subsection, the commissioner of the ***Department of Innovation and Commercialization for a Knowledge Based***[~~Office for the New~~] Economy shall approve the contracts issued by the Council on Postsecondary Education regarding the structure of programs and funding levels in those programs administered by a science and technology organization and created in KRS 154.12-320, 164.6021, 164.6029, and 164.6037.

(2) The council may expend money in the funds created in KRS 164.6019, 164.6027, and 164.6035 for reasonable administrative expenses directly incurred in carrying out the requirements of KRS 164.6019 to 164.6041. It is the intent of the General Assembly that the funds created in KRS 164.6019, 164.6027, and 164.6035 be used, to the fullest extent possible, to directly fund project costs. It is also the intent of the General Assembly that the first priority of expenditures of any excess revenues generated from the funds created in KRS 164.6019, 164.6027, and 164.6035 is to replenish general fund appropriations for those same purposes.

(3) The council shall contract with a science and technology organization to administer the programs created in KRS 164.6021, 164.6029, and 164.6037. The council shall approve the application criteria, the process for submission of an application, and the structure and type of outside expertise or peer review used in the application review process in the programs created in KRS 164.6021, 164.6029, and 164.6037.

(4) No member of the council or the science and technology organization or other administering entity, or their employees or outside experts or their immediate family members, shall directly or indirectly financially benefit in any award, contract, or agreement under the programs.

(5) The council shall submit an annual report prior to October 15 to the Kentucky Innovation Commission, the Governor, and the General Assembly detailing its work related to the programs created in KRS 164.6021, 164.6029, and 164.6037. The annual report shall be coordinated with the monitoring report by the ***Department of Innovation and Commercialization for a Knowledge Based***[~~Office for the New~~] Economy indicating progress made through investments, and shall include but not be limited to reporting on the progress made in achieving each program's purposes, qualitative and quantitative information concerning the applications received, projects approved and undertaken, companies served, and funding amounts invested in each project or program, as appropriate, and findings and recommendations to increase each program's effectiveness in achieving its purposes.

(6) All records related to the administration of the programs created in KRS 164.6021, 164.6029, and 164.6037 shall be deemed property of the council and shall be deemed open records and subject to public inspection under KRS 61.870 to 61.884. Any research that involves or is a patent, trade secret, or other legally protectable interest shall be exempt from inspection until such time as the intellectual property rights have been fully protected.

Section 16. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 17. The General Assembly confirms Resolution 04-01 of the Kentucky Economic Development Partnership, relating to a general reorganization, to the extent that it is not otherwise confirmed by this Act, this Resolution having been made by the Kentucky Economic Development Partnership under the authority granted to it by KRS 12.028 and 154.10-030.

SB 39 was read for the first time by title and sponsor only and placed in the Calendar.

SB 39 is as follows:

SB 39, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Operations and Development Office.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.
    (o) Board of Directors for the Center for School Safety.
  3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.
(h) Office of Inspector General.

4. Transportation Cabinet:
(a) Department of Highways.
1. Office of Program Planning and Management.
2. Office of Project Development.
3. Office of Construction and Operations.
4. Office of Intermodal Programs.
5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of ***Aviation***[~~Fiscal Management~~].
(e) Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~].
1. Office of Transportation Enhancement Programs.
2. Office of Rural and Secondary Roads.
(f)[~~Department of Human Resources Management.~~
~~(g)~~] Office of the Secretary.
1.[~~(h)~~] Office of[~~ General Counsel and~~] Legislative ***and Intergovernmental*** Affairs.
2.[~~(i)~~] Office of Public Affairs.
3.[~~(j)~~] Office of Transportation Delivery.
4.[~~(k)~~] Office ***for Business and Occupational Development***[~~of Minority Affairs~~].
5.[~~(l)~~] Office of[~~ Policy and~~] Budget ***and Fiscal Management***.
6.[~~(m)~~] Office of ***Legal Services***[~~Technology~~].
7.[~~(n)~~] Office of ***Inspector General***[~~Quality~~].
8.[~~(o)~~] Office of the Transportation Operations Center.
9. Office of Personnel Management.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.

6. Environmental and Public Protection Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Horse Racing Authority.
(i) Board of Claims.

- (j) Crime Victims Compensation Board.
- (k) Kentucky Board of Tax Appeals.
- (l) Office of Petroleum Storage Tank Environmental Assurance Fund.
- (m) Department of Charitable Gaming.
- (n) Mine Safety Review Commission.

7. Cabinet for Families and Children:
   - (a) Department for Community Based Services.
   - (b) Department for Disability Determination Services.
   - (c) Public Assistance Appeals Board.
   - (d) Office of the Secretary.
     - (1) Kentucky Commission on Community Volunteerism and Service.
   - (e) Office of the General Counsel.
   - (f) Office of Program Support.
   - (g) Office of Family Resource and Youth Services Centers.
   - (h) Office of Technology Services.
   - (i) Office of the Ombudsman.
   - (j) Office of Human Resource Management.
8. Cabinet for Health Services.
   - (a) Department for Public Health.
   - (b) Department for Medicaid Services.
   - (c) Department for Mental Health and Mental Retardation Services.
   - (d) Kentucky Commission on Children with Special Health Care Needs.
   - (e) Office of Certificate of Need.
   - (f) Office of the Secretary.
   - (g) Office of the General Counsel.
   - (h) Office of the Inspector General.
   - (i) Office of Aging Services.
9. Finance and Administration Cabinet:
   - (a) Office of Financial Management.
   - (b) Office of the Controller.
   - (c) Department for Administration.
   - (d) Department of Facilities Management.
   - (e) State Property and Buildings Commission.
   - (f) Kentucky Pollution Abatement Authority.
   - (g) Kentucky Savings Bond Authority.
   - (h) Deferred Compensation Systems.
   - (i) Office of Equal Employment Opportunity Contract Compliance.
   - (j) Office of Capital Plaza Operations.
   - (k) County Officials Compensation Board.
   - (l) Kentucky Employees Retirement Systems.
   - (m) Commonwealth Credit Union.
   - (n) State Investment Commission.
   - (o) Kentucky Housing Corporation.
   - (p) Governmental Services Center.
   - (q) Kentucky Local Correctional Facilities Construction Authority.
   - (r) Kentucky Turnpike Authority.
   - (s) Historic Properties Advisory Commission.
   - (t) Kentucky Tobacco Settlement Trust Corporation.

(u) Eastern Kentucky Exposition Center Corporation.
(v) State Board for Proprietary Education.

10. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Information Technology.
    (m) Office of Labor-Management Relations and Mediation.
    (n) Office of General Counsel.
    (o) Workers' Compensation Funding Commission.
    (p) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
    (a) Department of Property Valuation.
    (b) Department of Tax Administration.
    (c) Office of Financial and Administrative Services.
    (d) Department of Law.
    (e) Department of Information Technology.
    (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
    (a) Department of Travel.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of General Counsel.
    (h) Tourism Development Finance Authority.
13. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) Kentucky Technical Education Personnel Board.
    (g) The Foundation for Adult Education.
    (h) Department for Training and Reemployment.
    (i) Office of General Counsel.
    (j) Office of Communication Services.
    (k) Office of Workforce Partnerships.
    (l) Office of Workforce Analysis and Research.

(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.
14. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.
III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 2. KRS 174.020 is amended to read as follows:

(1) The Transportation Cabinet shall consist of the following major organizational units:
(a) The Office of the Secretary, which shall include, but not be limited to:
1. The secretary to be appointed by the Governor under KRS 12.255; and
2. The deputy secretary appointed under KRS 12.040;
(b) The Department of Highways, headed by a commissioner, appointed by the Governor under KRS 12.040 on the recommendation of the secretary;
(c) The Department of Vehicle Regulation, headed by a commissioner, appointed by the secretary with the approval of the Governor, under KRS 12.040;
(d) The Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~], headed by a commissioner appointed by the Governor under KRS 12.040;
(e) The Department of ***Aviation***[~~Fiscal Management~~], headed by a commissioner appointed by the Governor under KRS 12.040***. The Kentucky Airport Zoning Commission established by KRS 183.861 shall be attached to the Department of Aviation for administrative purposes***;
(f) The Department of Administrative Services, headed by a commissioner appointed by the Governor under KRS 12.040;
(g)[~~The Department of Human Resources Management, headed by a commissioner appointed by the Governor under KRS 12.040;~~
~~(h)~~] The following offices, which shall be attached to the Office of the Secretary:
1. The Office of Public Affairs, headed by an executive director appointed under KRS 12.040;
2. The Office of[~~ Policy and~~] Budget ***and Fiscal Management***, headed by an executive director appointed under KRS 12.040;

3. The Office of Transportation Delivery, headed by an executive director appointed under KRS 12.040;

4. The Office of~~[General Counsel and]~~ Legislative ***and Intergovernmental*** Affairs, headed by an executive director appointed under KRS 12.040;

5. The Office ***for Business and Occupational Development***~~[of Minority Affairs]~~, headed by an executive director appointed under KRS 12.040;

6. The Office of ***Legal Services***~~[Technology]~~, headed by an executive director appointed under KRS 12.040;

7. The Office of ***Inspector General***~~[Quality]~~, headed by an executive director appointed under KRS 12.040;

8. The Office of Transportation Operations Center, headed by an executive director appointed under KRS 12.040;

9. The office of Personnel Management, headed by an executive director appointed under KRS 12.040;

(h)~~[(i)]~~ The following offices, which shall be attached to the Department of Highways:

1. The Office of Program Planning and Management, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and known as the deputy state highway engineer for program planning and management;

2. The Office of Project Development, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for project development;

3. The Office of Construction and Operations, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for construction and operations;

4. The Office of Intermodal Programs, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for intermodal programs~~[. The Kentucky Airport Zoning Commission established by KRS 183.861 shall be attached to the Division of Aeronautics within the Office of Intermodal Programs for administrative purposes]~~; and

5. Highway District Offices One through Twelve, each district office to be headed by a chief highway district engineer, appointed by the secretary upon the recommendation of the commissioner and the state highway engineer, with the approval of the Governor***;***

(i) The following offices, which shall be attached to the Department of Intergovernmental Programs:

1. Office of Transportation Enhancement Programs, headed by an executive director appointed under KRS 12.040; and

2. Office of Rural and Secondary Roads, headed by an executive director appointed under KRS 12.040.

(2) The positions of director in the Division of Fleet Management, Division of Professional Services, and Division of Environmental Analysis are policy-making positions under KRS 18A.175.

Section 3. KRS 174.016 is amended to read as follows:

(1) The ***Office of Rural and Secondary Roads within the*** Department of ***Intergovernmental Programs***~~[Rural and Municipal Aid]~~ shall be responsible for the development and implementation of the Rural Secondary Program and such other functions as are assigned by the secretary, except that the department shall not have jurisdiction over the County Road Aid Program or Municipal Road Aid Program unless an agreement initiated by a county or municipality is in effect.

(2) The Department of ***Intergovernmental Programs***~~[Rural and Municipal Aid]~~ shall include an assistant state highway engineer for rural and municipal aid appointed pursuant to KRS Chapter 12 by the secretary upon the recommendation of the state highway engineer of the Department of Highways.

Section 4. KRS 174.025 is amended to read as follows:

The executive director of the Office of ***Legal Services***~~[General Counsel and Legislative Affairs]~~ may also serve as general counsel if so appointed pursuant to KRS 12.210. The Office of ***Legal Services***~~[General Counsel and Legislative Affairs]~~ shall be directly responsible to the secretary and shall perform such duties as may be assigned by the secretary. The office shall consist of such ***attorneys*** appointed pursuant to KRS 12.210 and such employees as necessary to perform the duties, responsibilities, and functions of the office.

Section 5. KRS 174.040 is amended to read as follows:

The secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create such positions and to employ the necessary personnel in such positions to enable the secretary to perform the functions of the cabinet. The commissioner of the Department of Highways shall serve as chief deputy secretary of the cabinet. The commissioner of the Department of ***Intergovernmental Programs***~~[Rural and Municipal Aid]~~ and the commissioner of the Department of Vehicle Regulation may be designated as deputy secretaries for operational purposes.

Section 6. KRS 177.020 is amended to read as follows:

(1) The state primary road system shall consist of such public roads and city streets within the state as the Department of Highways determines shall be established, constructed, or maintained by the Department of Highways.

(2) The department shall, in its discretion, determine which public roads, or city streets, shall be established, constructed, or maintained by it, and shall determine the type of construction or maintenance for that road or city street.

(3) In the establishment of the state primary road system, the Department of Highways is authorized to select new routes, deviate from an existing route whenever it deems such deviation proper, eliminate from the state primary system roads or city streets which have been replaced as proper part of the system by the construction of a new facility or the selection of a new route. No permanent ingress or egress ramp of the state primary road system on fully controlled access facilities shall be closed, except for repairs, unless a public hearing is first held in the area to be affected by the closing. The Department of Highways shall, at least twenty (20) days before the hearing, advertise in a newspaper of general circulation in the area to be affected by the closing, the date, time, and place of the hearing.

(4) Prior to the advertisement for bids on any highway construction project, the Department of Highways shall meet with the fiscal court in the jurisdiction of the construction project for the purpose of advising the fiscal court of any state road or road segment which the department may seek to eliminate from the state primary road system upon completion of that highway construction project. The requirement of this subsection shall be in addition to the requirements of subsection (5) of this section.

(5) The department shall notify the fiscal court of the county at least four (4) months before it eliminates a road, road segment, bridge, or street in that county from the state primary road system. Upon receiving notice, the fiscal court may reject title and notify the department that the road shall not become part of the county road system. If the fiscal court declines, the department shall give notice to all private persons entitled to a necessary access over this road of their rights under this chapter; and, by petition of any private party entitled to such access, the road shall be deemed a discontinued state road and shall be closed to public use but remain open in accordance with its condition and use for the access of the private parties involved. In the absence of such petition, title shall be transferred to the owner or owners of the tract or tracts of land to which the road originally belonged.

(6) As used in this section, the term "rural secondary roads" shall mean such system of roads in this state which are usually considered farm to market roads and that were classified as part of the rural secondary road system by the Department of Highways on January 1, 1986. By January 1, 1987, the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~] shall meet with the fiscal courts in each of the counties to receive recommendations regarding the transfer of roads, included as part of the county road system on January 1, 1986, to the rural secondary system. Prior to such meeting with the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~], the fiscal court shall consult with the legislative bodies of municipalities within the county regarding their recommendations for the transfer of county roads located within the jurisdiction of the municipality. On July 1, 1987, the Transportation Cabinet shall by official order accept at least two thousand (2,000) miles of roads in the county road system into the rural secondary system. In accepting such roads into the rural secondary system, the Transportation Cabinet shall accept in each county at least seventy-five percent (75%) of the total number of miles in each county determined by multiplying the total number of county road miles accepted in the rural secondary system by the percentage of county road aid funds received in each county in fiscal year 1984-85 compared to the total amount of county road aid funds generated in fiscal year 1984-85. The determination of the total funds received by each county from the county road aid program in fiscal year 1984-85 and the total amount of county road aid funds generated in fiscal year 1984-85 shall be made by the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~]. The roads so transferred shall be maintained with the proceeds of the provisions of KRS 177.320(1) and in no case shall the rural secondary system, as defined in this subsection, be less than eleven thousand eight hundred (11,800) miles.

(7) The establishment, construction, or maintenance of the state primary road system shall be under the direction and control of the Department of Highways. The commissioner of highways is authorized to adopt regulations necessary to the administration of this authority.

Section 7. KRS 177.330 is amended to read as follows:

(1) At least once in each calendar year, the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~], through a duly-authorized representative, shall consult with the fiscal courts of the various counties for the purpose of receiving recommendations from the fiscal courts for the selection of rural and secondary roads lying within the counties for construction, reconstruction, or maintenance under the Rural and Secondary Road Program as set forth in KRS 177.320(1). The Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~] may receive recommendations from any citizen on the selection of rural and secondary roads for construction, reconstruction, or maintenance under the Rural and Secondary Road Program. The Department of Highways shall notify each county fiscal court of the county roads that the department intends to construct, reconstruct, or maintain in accordance with the provisions of KRS Chapters 177 and 179.

(2) Where the construction of a secondary or rural road through an incorporated town of the fifth or sixth class is necessary, as determined by the ***Intergovernmental Programs***[~~Department of Rural and Municipal Aid~~], the road may be constructed, reconstructed, or maintained at the discretion of the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~].

Section 8. KRS 177.340 is amended to read as follows:

If, within thirty (30) days after consulting with a fiscal court, the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~] and the fiscal court shall fail to agree on the selection of any rural and secondary roads for construction, reconstruction, or maintenance under the Rural and Secondary Road Program, the department may proceed toward the construction, reconstruction, or maintenance of any road, which, in its discretion, is essential to a system of secondary highways. Rural and secondary roads, constructed, reconstructed, or maintained in accordance with agreement between the affected county and the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~], or selected for construction, reconstruction, or maintenance by the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~], at its discretion, without agreement with the affected county, may become a part of the highway system of the Commonwealth of Kentucky at the discretion of the Department of Highways.

Section 9. KRS 177.350 is amended to read as follows:

The Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~] may promulgate administrative regulations pursuant to KRS Chapter 13A to establish standards for the construction, reconstruction, maintenance, and improvement of rural and secondary roads in the Commonwealth of Kentucky. The department shall conduct studies, make surveys, prepare maps, employ personnel, and obtain equipment as may be necessary for the establishment and maintenance of an integrated system of secondary and rural roads in the Commonwealth of Kentucky.

Section 10. KRS 177.360 is amended to read as follows:

(1) Except as provided in subsection (5) of this section, the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~] shall allocate the funds set apart under KRS 177.320(1) for construction, reconstruction, and maintenance of state-maintained secondary and rural highways as follows:

(a) One-fifth (1/5) shall be apportioned equally among the one hundred twenty (120) counties.

(b) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the rural population of each county bears to the total rural population of the state. "Rural population" as used here means the population in a county outside cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census.

(c) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more bears to the total mileage of such roads for the entire state.

(d) Two-fifths (2/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the square-mile rural area of the county bears to the total square-mile rural area of the state. "Rural area" as used here means that area of the county outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of the United States Bureau of the Census.

(2) A sum not exceeding six percent (6%) of the allocation provided by KRS 177.320(1) to each county shall be deducted at the beginning of each fiscal year and adjusted quarterly to cover the maintenance, administrative, engineering, and other costs of the program.

(3) Of the total amount apportioned by the provisions of this section, a sum not exceeding six percent (6%) may be deducted and placed by the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~] in a special emergency account to be expended at the direction of the commissioner to meet unforeseen emergencies on rural and secondary roads and bridges.

(4) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Finance and Administration Cabinet and adjusted quarterly in accordance with the most recent revision of the estimates by the Finance and Administration Cabinet.

(5) Any county eligible to receive county road aid moneys in accordance with KRS 177.320 and this section shall be required to submit a uniform financial information report to the Department for Local Government in accordance with KRS 65.905 before any payment of county road aid funds shall be made. The Department for Local Government shall notify the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~] no later than March 1 annually of any county that has not submitted a uniform financial information report. The Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~] shall upon notification by the department immediately suspend all county road aid moneys to the county until the county complies with the provisions of KRS 65.900 to 65.915 and submits the uniform financial information report to the Department for Local Government. The department shall immediately notify the Department of ***Intergovernmental Programs***[~~Rural and Municipal Aid~~] to reinstate county road aid moneys to any county affected by this subsection as soon as the county submits the uniform financial information report.

Section 11. KRS 179.400 is amended to read as follows:

(1) The fiscal court of any county receiving state aid shall appropriate sufficient money to keep all county roads in the county in good repair and free from obstructions. The cost of all repairs and removals of obstruction shall be paid by the treasurer of the county upon the order of the fiscal court, and all bills for repairs or for removal of obstructions shall be verified by

affidavit, and shall be certified to be correct by the county engineer.

(2) The fiscal court of any county receiving state aid may, if it deems proper, enter into contract or cooperative agreement with the Department of ***Intergovernmental Programs***~~[Rural and Municipal Aid]~~ for the construction, reconstruction and maintenance of county roads and bridges selected by the fiscal court. Any contract or cooperative agreement shall designate those roads which the department shall be required to construct, reconstruct or maintain and shall not be in excess of the projected county allotment for any one (1) fiscal year. The county shall not be responsible for payment to the department of any costs not specified with the contract or cooperative agreement.

Section 12. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 13. Notwithstanding the provisions of KRS 12.028, the General Assembly confirms Executive Order 2004-724, dated July 9, 2004, Executive Order 2004-960, dated August 31, 2004, Executive Order 2004-1052, dated September 27, 2004, Executive Order 2004-1202, dated November 5, 2004, and Executive Order 2004-1360, dated December 21, 2004, to the extent that they are not otherwise confirmed by this Act.

SB 40 was read for the first time by title and sponsor only and placed in the Calendar.

SB 40 is as follows:

SB 40, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the ***Commerce***~~[Tourism Development]~~ Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 11.180 is amended to read as follows:

(1) There is hereby established the Kentucky Appalachian Commission for the purpose of developing a comprehensive plan for the Appalachian region of Kentucky in the context of development planning for the Commonwealth as a whole. Its goal shall be the unification of resources from both the public and private sectors to achieve sustainable economic development and an improved quality of life in the region.

(2) The commission shall be attached to the ***Department of Local Government***~~[Governor's Office]~~ for administrative purposes.

Section 3. KRS 11.182 is amended to read as follows:

(1) The membership of the commission shall consist of forty-eight (48) members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under KRS 11.180(1).

(a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet; secretary of the Cabinet for Families and Children; secretary of the Cabinet for Health Services; secretary of the Cabinet for Workforce Development; secretary of the Education, Arts, and Humanities Cabinet; commissioner of the Department of Agriculture; president of the Council on Postsecondary Education; president of the Kentucky Community and Technical College System; commissioner of the Department of Education; commissioner of the Department for Local Government; executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development;

state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.

(b) Members appointed by the Governor shall be:

1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and member of the state's judicial branch, all of whom shall be currently serving in the Appalachian region of the Commonwealth. The members who are a representative, a senator, and a representative of the judicial branch shall serve in a nonvoting capacity;

2. Nine (9) at-large members; and

3. One (1) member representing the Community Action Agencies of Appalachian Kentucky.

(c) Members appointed by and representing certain entities shall be: two (2) members of the Kentucky Appalachian Advisory Council; one (1) member of the University of Kentucky Office of Management and Budget; one (1) member from the Christian Appalachian Project; one (1) member appointed by the United States Representative from the Fifth Congressional District; and one (1) member appointed by the East Kentucky Leadership Foundation's board of directors.

(2) Members listed in subsection (1)(a) and (b)1. of this section shall serve during their terms of office or appointment. Members listed in subsection (1)(b)2., (1)(b)3., and (1)(c) of this section shall serve four (4) year staggered terms and may be reappointed.

(3) Members of the commission who are not state employees shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.

(4) Each member of the commission may designate in writing over his signature an alternate with full authority, in the absence of the designating member for any reason, to attend any properly convened meeting of the commission and to participate in the consideration of any business and transactions of the commission. Any designation of an alternate may, in the discretion of the designating member, be limited to be effective only for a designated meeting or only for specified business. An alternate shall not be entitled to vote upon any business or transactions of the commission.

Section 4. KRS 11.200 is amended to read as follows:

(1) There is created the Commission on Small Business Advocacy. The commission shall be a separate administrative body of state government within the meaning of KRS 12.010(8).

(2) It shall be the purpose of the Commission on Small Business Advocacy to:

(a) Address matters of small business as it relates to government affairs;

(b) Promote a cooperative and constructive relationship between state agencies and the small business community to ensure coordination and implementation of statewide strategies that benefit small business in the Commonwealth;

(c) Coordinate and educate the small business community of federal, state, and local government initiatives of value and importance to the small business community;

(d) Create a process by which the small business community is consulted in the development of public policy as it affects their industry sector;

(e) Aid the small business community in navigating the regulatory process, when that process becomes cumbersome, time consuming, and bewildering to the small business community; and

(f) Advocate for the small business, as necessary when regulatory implementation is overly burdensome, costly, and harmful to the success and growth of small businesses in the Commonwealth.

(3) The Commission on Small Business Advocacy shall consist of thirty-one (31) members:

(a) The Governor, or the Governor's designee;

(b) The secretaries of the following cabinets, or their designees:

1. Economic Development;

2. Natural Resources and Environmental Protection;

3. Revenue; and

4. Transportation;

(c) The state director of the Small Business Development Centers in Kentucky;

(d) One (1) representative of each of the following organizations, appointed by the Governor from a list of three (3) nominees submitted by the governing bodies of each organization:

1. Associated Industries of Kentucky;

2. National Federation of Independent Business;

3. Kentucky Chamber of Commerce;

4. Kentucky Federation of Business and Professional Women's Club, Inc.;
5. Kentucky Retail Federation;
6. Professional Women's Forum;
7. Kentuckiana Minority Supplier Development Council;
8. Greater Lexington Chamber of Commerce;
9. Lexington chapter of the National Association of Women Business Owners;
10. Greater Louisville, Inc.;
11. Louisville chapter of the National Association of Women Business Owners;
12. Northern Kentucky Chamber of Commerce, Inc.;
13. Northern Kentucky - Greater Cincinnati chapter of the National Association of Women Business Owners;
14. Kentucky Association of Realtors;
15. Henderson - Henderson County Chamber of Commerce;
16. Kentucky Coal Council;
17. Kentucky Farm Bureau Federation; and
18. Kentucky Homebuilders Association;

(e) One (1) representative from small business from each of the following areas, appointed by the Governor:

1. A city of the second class;
2. A city of the third class;
3. A city of the fourth class; and
4. A city of the fifth class;

(f) One (1) representative who is a small business owner served by each of the following organizations, appointed by the Governor:

1. The Center for Rural Development; and
2. Community Ventures Corporation; and

(g) One (1) representative who is a small business owner under the age of thirty-five (35), appointed by the Governor.

(4) The terms of all members appointed by the Governor shall be for four (4) years, except that the original appointments shall be staggered so that seven (7) appointments shall expire at two (2) years, seven (7) appointments shall expire at three (3) years, and seven (7) appointments shall expire at four (4) years from the dates of initial appointment.

(5) The Governor shall appoint the chair and vice chair of the commission from the list of appointed members.

(6) The commission shall meet quarterly and at other times upon call of the chair or a majority of the commission.

(7) A quorum shall be a majority of the membership of the commission.

(8) Members of the commission shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(9) ***The secretary of the Commerce Cabinet***[~~There shall be an executive director, who~~] shall be the administrative head and chief executive officer of the commission[~~, recommended by the commission and appointed by the Governor~~]. The ***secretary***[~~executive director~~] shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(10) The Commission on Small Business Advocacy shall be an independent agency attached to the office of the ***secretary of the Commerce Cabinet***[~~Governor~~].

Section 5. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 6. KRS 11.5163 is amended to read as follows:

(1) The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the chief information officer for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.

(3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the chief information officer, the Governor's Office for Policy and Management, and the General Assembly.

(4) The chief information officer shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.

(5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, Governor's Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources,~~[Tourism Development Cabinet,]~~ or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Division of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office for Security Coordination, Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(6) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(7) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(8) The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(9) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(10) The committee may establish additional working groups as determined by the committee.

Section 7. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.

(c) Department of Corrections.
(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) Offices of the Deputy Secretaries.
(g) Office of General Counsel.
(h) Division of Kentucky State Medical Examiners Office.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
    (1) Kentucky Board of Education.
(b) Department for Libraries and Archives.
(c)[~~Kentucky Arts Council.~~
~~(d)~~] Kentucky Educational Television.
(d)[~~(e)~~]Kentucky Historical Society.
(e)[~~(f)~~] Kentucky Teachers' Retirement System Board of Trustees.
(f)[~~(g)~~] Kentucky Center for the Arts.
(g)[~~(h) Kentucky Craft Marketing Program.~~
~~(i)~~] Kentucky Commission on the Deaf and Hard of Hearing.
(h)[~~(j)~~] Governor's Scholars Program.
(i)[~~(k) Governor's School for the Arts.~~
~~(l)~~] Operations and Development Office.
(j)[~~(m) Kentucky Heritage Council.~~
~~(n) Kentucky African-American Heritage Commission.~~
~~(o)~~] Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.
(h) Office of Inspector General.

4. Transportation Cabinet:
(a) Department of Highways.
    1. Office of Program Planning and Management.
    2. Office of Project Development.
    3. Office of Construction and Operations.
    4. Office of Intermodal Programs.
    5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.

(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.

6. Environmental and Public Protection Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Horse Racing Authority.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Office of Petroleum Storage Tank Environmental Assurance Fund.
(m) Department of Charitable Gaming.
(n) Mine Safety Review Commission.

7. Cabinet for Families and Children:
(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
    (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Human Resource Management.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.

(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

9. Finance and Administration Cabinet:

(a) Office of Financial Management.
(b) Office of the Controller.
(c) Department for Administration.
(d) Department of Facilities Management.
(e) State Property and Buildings Commission.
(f) Kentucky Pollution Abatement Authority.
(g) Kentucky Savings Bond Authority.
(h) Deferred Compensation Systems.
(i) Office of Equal Employment Opportunity Contract Compliance.
(j)[~~Office of Capital Plaza Operations.~~
~~(k)~~] County Officials Compensation Board.
(k)[~~(l)~~] Kentucky Employees Retirement Systems.
(l)[~~(m)~~] Commonwealth Credit Union.
(m)[~~(n)~~] State Investment Commission.
(n)[~~(o)~~] Kentucky Housing Corporation.
(o)[~~(p)~~] Governmental Services Center.
(p)[~~(q)~~] Kentucky Local Correctional Facilities Construction Authority.
(q)[~~(r)~~] Kentucky Turnpike Authority.
(r)[~~(s)~~] Historic Properties Advisory Commission.
(s)[~~(t)~~] Kentucky Tobacco Settlement Trust Corporation.
(t)[~~(u)~~] Eastern Kentucky Exposition Center Corporation.
(u)[~~(v)~~] State Board for Proprietary Education.

10. Labor Cabinet:

(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:

(a) Department of Property Valuation.
(b) Department of Tax Administration.

    (c) Office of Financial and Administrative Services.
    (d) Department of Law.
    (e) Department of Information Technology.
    (f) Office of Taxpayer Ombudsman.
12. ***Commerce***[~~Tourism Development~~] Cabinet:
    (a) Department of Travel.
    (b) ***Kentucky*** Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park[~~ Commission~~].
    (e) ***Kentucky*** State Fair Board.
    (f) Office of ***the Secretary***[~~Administrative Services.~~
    ~~(g) Office of General Counsel.~~
    ~~(h) Tourism Development Finance Authority~~].
    (g) Office of Finance and Administration.
    (h) Office of Legal Affairs.
    (i) Office of Intergovernmental Affairs.
    (j) Office of Human Resources.
    (k) Office of Public Affairs and Constituent Services.
    (l) Office of Information Technology.
    (m) Office of Purchase and Procurement.
    (n) Office of Creative Services.
    (o) Office of Capital Plaza Operations.
    (p) Commission on Small Business Advocacy.
    (q) Coal Marketing and Export.
    (r) Kentucky Coal Council.
    (s) Kentucky Foundation for the Arts.
    (t). Kentucky Humanities Council.
    (u) Kentucky Heritage Council.
    (v) Kentucky Arts Council.
    (w) Kentucky Historical Society.
    (x) Kentucky Center for the Arts.
    (y) Kentucky Artisans Center at Berea.
    (z) Department of Tourism.
13. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) Kentucky Technical Education Personnel Board.
    (g) The Foundation for Adult Education.
    (h) Department for Training and Reemployment.
    (i) Office of General Counsel.
    (j) Office of Communication Services.
    (k) Office of Workforce Partnerships.
    (l) Office of Workforce Analysis and Research.
    (m) Office of Budget and Administrative Services.
    (n) Office of Technology Services.
    (o) Office of Quality and Human Resources.

(p) Unemployment Insurance Commission.
14. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.
III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 8. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:
(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7)[~~ Kentucky Coal Council;~~
~~(8)~~] Governor's Office of Child Abuse and Domestic Violence Services;
(8)[~~(9)~~] Governor's Office for Technology;
[~~(10) Office of Coal Marketing and Export;~~]
(9)[~~(11)~~] Agricultural Development Board;
[~~(12) Commission on Small Business Advocacy;~~]
(10)[~~(13)~~] Office of Early Childhood Development;
(11)[~~(14)~~] Kentucky Agency for Substance Abuse Policy;
(12)[~~(15)~~] Education Professional Standards Board; and
(13)[~~(16)~~] Kentucky Agricultural Finance Corporation.

Section 9. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:
(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.

(4) Transportation Cabinet.

(5) Cabinet for Economic Development.

(6) Public Protection and Regulation Cabinet.

(7) Cabinet for Health Services.

(8) Cabinet for Families and Children.

(9) Finance and Administration Cabinet.

(10) ***Commerce***[~~Tourism Development~~] Cabinet.

(11) Revenue Cabinet.

(12) Labor Cabinet.

(13) Cabinet for Workforce Development.

(14) Personnel Cabinet.

Section 10. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the Office of Financial Management[~~, the Office of Capital Plaza Operations,~~] and the Office of the Controller, each of which shall be headed by an executive director, the Department for Administration, and the Department for Facilities Management, each of which shall be headed by a commissioner appointed by the secretary, upon the approval of the Governor, and responsible to the secretary. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into the offices, bureaus, divisions, or other units the secretary deems necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 11. KRS 45.001 is amended to read as follows:

(1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.

(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following members or their designees:

(a) The mayor of the city of Frankfort;

(b) The county judge/executive of Franklin County;

(c) The secretary of the Finance and Administration Cabinet;

(d) The secretary of the ***Commerce***[~~Tourism~~] Cabinet;

(e) The secretary of the Education, Arts, and Humanities Cabinet;

(f) The commissioner of the Department of Travel Development;

(g) The executive director of the Office of Capital Plaza Operations;

(h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;

(i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and

(j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

(4) The Governor shall appoint the chairperson of the committee.

(5) Members of the committee shall serve without compensation.

(6) The Office of Capital Plaza Operations in the Finance and Administration Cabinet shall provide administrative support to the committee.

Section 12. KRS 65.6971 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area for infrastructure development which includes revenues from the Commonwealth, the standards for which the Cabinet for Economic Development and the ***Commerce***[~~Tourism Development~~] Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area described in the application constitutes a project of the type described in this section. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A development area for purposes of infrastructure development shall:

(a) 1. Consist of at least fifty (50) acres of undeveloped land, unless approved otherwise by the economic development authority or the tourism development authority in consideration of the geography of the area; or

2. Consist of at least one (1) acre constituting a brownfield site; and

(b) 1. In the case of an economic development project, be under the control of, owned by, and operated by an agency at the commencement date; or

2. In the case of a tourism attraction project, be under the control of, leased by, owned by, or operated by an agency at the commencement date.

(3) With respect to each city, county, or agency that applies to the economic development authority or the tourism development authority for approval of a development area for infrastructure development, the economic development authority or the tourism development authority shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority may grant approval for:

(a) The development area for infrastructure development;

(b) Each project for which an application has been submitted to be located in the development area for infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under subchapters 22, 24, or 28 of KRS Chapter 154, or satisfies the requirements of a tourism development attraction defined under KRS 148.851;

(c) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to distribute to the agency each year during the term of the grant contract;

(d) The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and

(e) The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.

(4) Prior to any approval by the economic development authority or the tourism development authority, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the development area for which economic development authority or the tourism development authority approval is sought. The economic development authority or the tourism development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

(5) The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).

(6) The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority or the tourism development authority and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority or the tourism development authority as to the use of the increment for payment of infrastructure development costs.

(7) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the Revenue Cabinet for certification.

1. Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increment collected.

2. Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to

release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Revenue Cabinet shall report to the economic development authority or the tourism development authority on a calendar year basis the amount of the total increment released to an agency.

(8) The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(9) The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.

Section 13. KRS 65.6972 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area, which includes revenues from the Commonwealth, and the related project, the standards for which the Cabinet for Economic Development and the ***Commerce***[~~Tourism Development~~] Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area and related project described in the application constitutes a project of the type described in KRS Chapter 154 for which the economic development authority shall have the right to approve the development area and related project or KRS Chapter 148 for which the tourism development authority shall have the right to approve the development area and related project. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A project otherwise satisfying the requirements of the project as defined in KRS 65.680, in order to qualify the project and related development area, in addition shall satisfy all of the following requirements for a project:

(a) Represent new economic activity in the Commonwealth;

(b) Result in a minimum capital investment of ten million dollars ($10,000,000);

(c) Result in the creation of a minimum of twenty-five (25) new full-time jobs for Kentucky residents to be held by persons subject to the personal income tax of the Commonwealth within two (2) years of the date of the final resolution authorizing the development area and the project;

(d) Result in a net positive economic impact to the economy of the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses;

(e) Generate a minimum of twenty-five percent (25%) of the total revenues derived from the project attributable to sources outside of the Commonwealth during each year a grant contract is in effect;

(f) Result in a unique contribution to or preservation of the economic vitality and quality of life of a region of the Commonwealth; and

(g) Not be primarily devoted to the retail sale of goods.

(3) After assignment of the application for the project and related development area by the Cabinet for Economic Development:

(a) The economic development authority or the tourism development authority, as appropriate, shall engage the services of a qualified independent consultant to analyze data related to the project and the development area, who shall prepare a report for the economic development authority or the tourism development authority, as appropriate, with the following findings:

1. The percentage of revenues derived from the development area which are generated from business not located in the Commonwealth;

2. The estimated amount of increment the development area is expected to generate over a twenty (20) year period from the projected activation date;

3. The estimated amount of ad valorem taxes, other than the school or fire district portion of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes which would be displaced within the Commonwealth, to reflect economic activity which is being shifted over the twenty (20) year period;

4. The estimated increment the development area is expected to generate over the twenty (20) year period, equal to the estimated amount set forth in paragraph (a)2. of this subsection minus the estimated amount set forth in paragraph (a)3. of this subsection; and

5. The project or development area will not occur if not for the designation of the development area and granting of increments by the Commonwealth to the development area.

(b) The independent consultant shall consult with the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of the report. The Office of State Budget Director, the Finance and

Administration Cabinet, and the Revenue Cabinet shall agree as to methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project to the economic development authority or tourism development authority, as appropriate. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(c) The primary project entity shall pay all costs associated with the independent consultant's report.

(4) With respect to each city, county, or agency that applies for approval of a project and development area, the economic development authority or the tourism development authority, as appropriate, shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority, as appropriate, deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority, as appropriate, may by resolution grant approval for:

(a) The development area and project for which an application has been submitted;

(b) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have distributed to the agency each year during the term of the grant contract;

(c) The maximum amount of costs for the project for which the increment may be distributed to the agency; and

(d) The grant contract.

(5) Prior to any approval by the economic development authority or the tourism development authority, as appropriate, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and approving the project and establishing the percentage of increment that the city and county are distributing each year to the agency to pay for the development area for which economic development authority or tourism development authority approval is sought. The economic development authority or the tourism development authority, as appropriate, shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each year with respect to a development area and project greater than the percentage approved by the city or county creating the development area.

(6) The amount of increment available for a development area shall be no more than eighty percent (80%) per year, but shall in no case exceed twenty-five percent (25%) of the project costs during the term of the grant agreement.

(7) The terms and conditions of each grant contract are subject to negotiations between the economic development authority or the tourism development authority, as appropriate, and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the agreed taxes to be included in the calculation of the increment, the percentage increment to be contributed by the Commonwealth and other taxing districts, the maximum amount of project costs, a description of the development area and the project, the termination date, and the requirement that the agency annually certify to the economic development authority or tourism development authority, as appropriate, as to the use of the increment for payment of project costs in the development area.

(8) The agency responsible for the development area that enters into the grant contract shall, after each year the grant contract is in effect, certify to the economic development authority or the tourism development authority, as appropriate:

(a) The amount of the increment used during the previous calendar year for the project costs; and

(b) That more than twenty-five percent (25%) of the total revenues derived from the project during the previous calendar year were attributable to sources outside the Commonwealth.

(9) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due. In consultation with each taxing district, the agency shall determine the respective portion of the total increment due from each taxing district, and the determination of the agency shall be reviewed by an independent certified public accountant. The agency shall submit to the Revenue Cabinet for certification its determination with respect to the total increment due together with the review of the certified public accountant and detailed information concerning ad valorem taxes, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the Revenue Cabinet, including withholding taxes of employees of each taxpayer located in the development area.

1. Upon notification to the agency of the total increment by the Revenue Cabinet and notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increments collected.

2. Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the

increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority, as appropriate, shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Revenue Cabinet shall report to the economic development authority or the tourism development authority, as appropriate, on a calendar year basis the amount of the total increment released to an agency.

(10) The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(11) The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the trust account established under subsection (9)(a)2. of this section and administered by the Finance and Administration Cabinet after the initial release to the agency of the Commonwealth's increment for that period.

Section 14. KRS 139.536 is amended to read as follows:

(1) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851. The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected. The term of the agreement granting the sales tax refund shall be ten (10) years, and this time period shall commence on the later of:

(a) The final approval for purposes of the inducements; or

(b) The completion date specified in the agreement.

(2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.

(3) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds. By October 1 of each year the Revenue Cabinet shall certify to the authority and the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to subsection (1) of this section.

(4) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(5) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of this section and KRS 148.851 to 148.860.

Section 15. KRS 148.022 is amended to read as follows:

(1) The Department for Local Government shall administer and operate the outdoor recreation programs of the state and shall be responsible for developmental planning and the administration of United States Bureau of Outdoor Recreation funds.

(2) All functions of the Commonwealth relating to the Breaks Interstate Park shall be attached to the ***Commerce***[~~Tourism Development~~] Cabinet for administrative purposes.

Section 16. KRS 148.260 is amended to read as follows:

(1) There is hereby created and established an agency of state government to be known as the Kentucky Horse Park Commission which shall constitute a separate administrative body of state government within the meaning of KRS 12.010(8) and under the provisions of KRS 12.015 shall be attached to the ***Commerce***[~~Tourism Development~~] Cabinet for administrative purposes.

(2) The commission shall be composed of seventeen (17) members who possess the ability to provide broad management expertise and direction in the operation of the Kentucky Horse Park and shall, to the extent possible, represent the diverse interest of the Kentucky horse industry. Of these, fifteen (15) members shall be appointed by the Governor. Two (2) of these appointed members of the commission shall represent the equine industry; and two (2) members shall be active in industry and commerce. The secretary of the Cabinet for Economic Development and the secretary of the

Commerce[~~Tourism Development~~] Cabinet shall serve as ex officio members with full voting rights. Any vacancy on the commission shall be filled by the Governor for the unexpired term.

(3) The appointed members of the commission shall hold their offices for a term of four (4) years, except that for the initial appointment to the commission, two (2) members shall serve a term of two (2) years, two (2) members shall serve a term of three (3) years, and three (3) members shall serve a term of four (4) years.

(4) The commission shall meet quarterly and shall be headed by a chairman appointed by the Governor. The chairman shall preside over the commission meetings. The chairman may call special meetings of the commission upon a request of the majority of the members of the commission.

(5) Members shall be reimbursed only for expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds of the Kentucky Horse Park.

(6) The commission shall establish and maintain an office at the Kentucky State Horse Park for the transaction of its business and shall not establish any branch office. The commission may hold meetings at any other place when the convenience of the commission requires.

(7) The commission shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures. A quorum of the commission shall consist of eight (8) members, and a quorum of members present at any duly-called meeting may act upon any matter before it for consideration. Each member shall have one (1) vote.

(8) The Governor may establish an advisory committee to advise in the administration, development and operation of the horse park or other functions, activities, and programs provided for or authorized by KRS 148.260 to 148.320.

Section 17. KRS 148.522 is amended to read as follows:

(1) The ***Commerce***[~~Tourism Development~~] Cabinet shall consist of the Office of the Secretary, the Office of ***Legal Affairs***[~~General Counsel~~], the Office of ***Finance and Administration***[~~Administrative Services~~], ***Office of Intergovernmental Affairs, Office of Human Resources, Office of Public Affairs and Constituent Services, Office of Information Technology, Office of Purchase and Procurement, Office of Creative Services, Office of Capital Plaza Operations,*** the Department of Travel, the Department of Parks, the Tourism Development Finance Authority, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.

(2) The ***Commerce***[~~Tourism Development~~] Cabinet shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.

(3) The Office of ***Legal Affairs***[~~General Counsel~~] shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet, and shall be directly responsible to the secretary.

(4) The Department of ***Tourism***[~~Travel~~] shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.

(5) The Divisions of Tourism Services ***is***[~~and Marketing and Advertising Services are~~] created within the Department of ***Tourism***[~~Travel~~]. ***The***[~~Each~~] division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.

Section 18. KRS 148.527 is amended to read as follows:

(1) The Department of Travel of the ***Commerce***[~~Tourism Development~~] Cabinet shall, after appropriate research has been conducted, establish and maintain a Kentucky Certified Retirement Community Program whereby retirees and those planning to retire are encouraged to make their homes in Kentucky communities that have met certain criteria to be certified by the ***Commerce***[~~Tourism Development~~] Cabinet as a Kentucky certified retirement community. In support of this program, the Department of Travel shall identify certain issues of interest to retirees or potential retirees in order to inform them of the benefits of living in Kentucky. Issues of interest to retirees may include, but are not limited to:

(a) Kentucky's state and local tax structure;

(b) Housing opportunities and cost;

(c) Climate;

(d) Personal safety;

(e) Working opportunities;

(f) Health care services and other services along the continuum of services including, but not limited to, home and community based services;

(g) Transportation;

(h) Continuing education;

(i) Leisure living;

(j) Recreation;

(k) The performing arts;

(l) Festivals and events;

(m) Sports at all levels; and

(n) Other services and facilities that are necessary to enable persons to age in the community and in the least restrictive environment.

(2) The mission of the Kentucky Certified Retirement Community Program shall be to:

(a) Promote the state as a retirement destination to retirees and those persons and families who are planning retirement both in and outside of Kentucky;

(b) Assist Kentucky communities in their efforts to market themselves as retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle;

(c) Assist in the development of retirement communities and lifecare communities for economic development purposes and as a means of providing a potential workforce and enriching Kentucky communities; and

(d) Encourage tourism to Kentucky in the form of mature market travel to Kentucky in reference to retirement desirability for the future, and for the visitation of those who have chosen to retire in Kentucky.

(3) The ***Commerce***[~~Tourism Development~~] Cabinet shall coordinate the development and planning of the Kentucky Certified Retirement Community Program with the Cabinet for Economic Development, the Office of Aging Services in the Cabinet for Health Services, the Kentucky Commission on Military Affairs, the Department of Veterans' Affairs, and other state and local groups interested in participating in and promoting the program.

(4) To obtain certification as a Kentucky certified retirement community, the following requirements shall be met:

(a) Official community support. A resolution by the governing authority endorsing the local retirement recruitment effort is required;

(b) Designation of a sponsor. The program shall have an official sponsoring organization that shall appoint an individual who will be accountable to the community and to the state;

(c) Funding. The sponsoring organization must commit a minimum of ten thousand dollars ($10,000) per year for the local program;

(d) Health services. There shall be a hospital and emergency medical services that are readily accessible to the community;

(e) Available housing. The community shall maintain information on both resale housing and rental housing to ensure that the quantity is sufficient to meet the needs of potential new retiree residents;

(f) Retiree desirability assessment. The community shall conduct a retiree desirability assessment that shall focus on a number of factors including, but not limited to, medical services, adult education opportunities, shopping, recreation, cultural opportunities, safety, aging services, and a continuum of care including home and community based services, housing for the elderly, assisted living, personal care, and nursing care facilities;

(g) Establishment of subcommittees. Each locality shall have a general retiree attraction committee and a minimum of four (4) subcommittees as follows:

1. Community inventory/assessment subcommittee. This subcommittee shall conduct an unbiased inventory and assessment of whether the community can offer the basics that retirees demand and develop a professional portfolio containing brief biographies of professionals in the community;

2. Community relations/fundraising subcommittee. This subcommittee shall locate retirees living in the community, act as salespersons for the program, raise funds necessary to run the program, recruit subcommittee members, organize special events, and promote and coordinate the program with local entities;

3. Marketing and promotion subcommittee. This subcommittee shall establish a community image, evaluate target markets, develop and distribute promotional material, and coordinate advertising and public relations campaigns; and

4. Ambassadors subcommittee. This subcommittee shall be the first contact with prospective retirees and provide tour guides when prospects visit the community. The subcommittee shall respond to inquiries, log contacts made, provide tours, invite prospects to special community events, and maintain continual contact with prospects until the time that the prospect makes a retirement location decision;

(h) Community profile. The sponsor shall develop a community profile similar to that used by many chambers of commerce. It will include factors such as crime statistics, tax information, recreational opportunities, and housing availability; and

(i) Written marketing plan. The retiree attraction committee shall submit a marketing plan that shall detail the mission, the target market, the competition, an analysis of the community's strengths, weaknesses, opportunities and threats, and the strategies the program will employ to attain its goals.

(5) During the certification process, a representative of the retirement attraction committee shall attend state training meetings.

(6) The retiree attraction committee shall work to gain the support of churches, clubs, businesses, and the local media, as this support is necessary for the success of the program.

(7) Within ninety (90) days of certification, the locality shall submit a complete retiree attraction package to the Department of Travel.

(8) Before certification is awarded, the retiree attraction committee shall submit a written three (3) year commitment to the program and a long-term plan outlining steps the community will undertake to maintain its desirability as a destination for retirees. The long-range plan shall outline plans to correct any facility and service deficiencies identified in the retiree desirability assessment required by subsection (4)(f) of this section. The written commitment and long-range plan shall be forwarded to the Department of Travel of the ***Commerce***[~~Tourism Development~~] Cabinet.

(9) Upon being certified as a Kentucky certified retirement community, the ***Commerce***[~~Tourism Development~~] Cabinet shall provide the following assistance to the community:

(a) Assistance in the training of local staff and volunteers;

(b) Ongoing oversight and guidance in marketing, plus updating on national retirement trends;

(c) Inclusion in the state's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the cabinet's Internet Web site;

(d) Eligibility for state financial assistance for brochures, support material, and advertising; and

(e) An annual evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.

(10) The ***Commerce***[~~Tourism Development~~] Cabinet shall promulgate administrative regulations to implement the provisions of this section.

Section 19. KRS 148.561 is amended to read as follows:

The Appalachian/Kentucky Artisans Gateway Center Authority is created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth that shall be a public body corporate and politic. The authority shall develop, operate, and manage the Appalachian/Kentucky Artisans Gateway Center funded by 1998 Ky. Acts ch. 615, Part X, under the reference "Artisans Center--Berea." The authority shall be attached to the ***Commerce***[~~Tourism Development~~] Cabinet for administrative purposes.

Section 20. KRS 148.562 is amended to read as follows:

(1) The authority shall be governed by a board of directors consisting of thirteen (13) members as follows:

(a) Secretary of the ***Commerce***[~~Tourism Development~~] Cabinet, or his or her designee;

(b) Secretary of the Transportation Cabinet, or his or her designee;

(c) Secretary of the Education, Arts, and Humanities Cabinet, or his or her designee;

(d) Secretary of the Finance and Administration Cabinet, or his or her designee;

(e) Three (3) members appointed by the Governor, one (1) to be a representative of the Kentucky Arts Council, and two (2) to be at-large members; and

(f) Six (6) members appointed by the mayor of the city of Berea to include two (2) representatives of Berea city government, two (2) representatives of Berea College recommended by the president of Berea College, one (1) representative of Eastern Kentucky University recommended by the president of Eastern Kentucky University, and one (1) at-large member.

(2) Members shall serve for staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:

(a) One (1) appointment by the Governor and two (2) appointments by the mayor of the city of Berea shall each serve a term of four (4) years;

(b) Two (2) appointments by the mayor of the city of Berea and one (1) appointment by the Governor shall each serve a term of three (3) years;

(c) One (1) appointment by the Governor and one (1) appointment by the mayor of the city of Berea shall each serve a term of two (2) years; and

(d) One (1) appointment by the mayor of the city of Berea shall serve a term of one (1) year.

(3) The Governor shall appoint a chair from among the members of the board.

(4) A quorum of the board shall consist of seven (7) members, with a majority of members present authorized to act upon any matter legally before the authority.

(5) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance, and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B, relating to administrative hearings.

Section 21. KRS 148.563 is amended to read as follows:

(1) An executive director shall be appointed in accordance with KRS 12.050.

(a) The executive director shall at all times attempt to accommodate the desires expressed by the board of directors.

(b) The executive director shall keep all minutes, records, and orders of the authority and shall be responsible for the preservation of all the documents. The documents shall be public records subject to KRS 61.870 to 61.884, relating to open records.

(2) The staff of the authority, including its executive director, shall be employees of the ***Commerce***[~~Tourism Development~~] Cabinet.

Section 22. KRS 148.566 is amended to read as follows:

The authority shall have the following duties and authorities:

(1) The authority shall supervise the design, construction, and operation of the center and shall provide all management functions for the facility and for any other property acquired or leased under its powers established by law.

(2) The authority shall promote the growth and development of statewide tourism related to arts and crafts destinations throughout the state and shall ensure that its efforts conform to marketing and promotion strategies devised by the ***Commerce***[~~Tourism Development~~] Cabinet.

(3) The authority shall have the exclusive control of scheduling all exhibitions, performances, retail activities, and concessions in the center. The authority shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center and may sell the property upon ten (10) days' notice to satisfy any indebtedness.

(4) The authority shall participate with local hotels and the travel industry to develop tourist packages and additional services to attract events, conferences, and conventions to the region.

(5) The authority may take, acquire, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease, or by transfer from the State Property and Buildings Commission and may dispose of any property so acquired in any manner provided by law.

(6) The authority may adopt administrative regulations in accordance with KRS Chapter 13A only for governing the operation, maintenance, or use of property under its custody and control.

(7) The authority may levy a surcharge on tickets for functions held within the center to contribute to operating revenue.

(8) The authority may sue and be sued and maintain and defend legal actions in its name.

(9) Members of the authority shall serve without compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

Section 23. KRS 148.850 is amended to read as follows:

(1) The Tourism Development Finance Authority is created within the ***Commerce***[~~Tourism Development~~] Cabinet. The authority shall consist of seven (7) members appointed by the Governor. The members of the authority shall serve without compensation but shall be entitled to reimbursement for their necessary expenses incurred in performing their duties. Of the members initially appointed to the authority, two (2) members shall be appointed for terms of one (1) year, three (3) members shall be appointed for terms of two (2) years, and two (2) members shall be appointed for terms of three (3) years. Thereafter, the members of the authority shall be appointed for terms of four (4) years.

(2) The Governor shall appoint one (1) member as chairperson of the Tourism Development Finance Authority. The members of the authority may elect other officers as they deem necessary.

(3) No member of the Tourism Development Finance Authority shall either directly or indirectly be a party to, or be in any manner interested in, any contract or agreement with the authority for any matter, cause, or thing that creates any liability or indebtedness against the authority.

(4) The Tourism Development Finance Authority shall have the powers necessary to carry out the purposes of this section, KRS 139.536, KRS 148.851 to 148.860, and the Tourism Development Loan Program created by 2000 Ky. Acts ch. 549, Part IX, Section 47, including, but not limited to, the power to:

(a) Make and condition all loans from the Tourism Development Loan Program;

(b) Employ fiscal consultants, attorneys, appraisers, and other agents on behalf of the authority whom the authority deems necessary or convenient for the preparation and administration of agreements and documents necessary or incidental to any project. The fees for the services provided by persons employed on behalf of the authority shall be paid by the beneficiary of a loan under this program directly to the person providing consultation, advisory, legal, or other services; and

(c) Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees and charges.

Section 24. KRS 148.851 is amended to read as follows:

As used in KRS 139.536 and KRS 148.851 to 148.860, unless the context clearly indicates otherwise:

(1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 148.859, on behalf of the authority and an approved company, with respect to a tourism attraction project;

(2) "Approved company" means any eligible company approved by the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet and the authority pursuant to KRS 148.859 that is seeking to undertake a tourism attraction project;

(3) "Approved costs" means:

  (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;

  (b) The costs of acquiring real property or rights in real property and any costs incidental thereto;

  (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

  (d) All costs of architectural and engineering services, including but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

  (e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;

  (f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and

  (g) All other costs comparable with those described in this subsection;

(4) "Authority" means the Kentucky Tourism Development Finance Authority as set forth in KRS 148.850;

(5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;

(6) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet pursuant to KRS 148.855. An eligible company may operate or intend to operate directly or indirectly through a lessee;

(7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;

(8) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 148.851 to 148.860;

(9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;

(10) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 148.851 to 148.860;

(11) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;

(12) "Theme restaurant destination attraction" means a restaurant facility that:

  (a) Has construction, equipment, and furnishing costs in excess of five million dollars ($5,000,000);

  (b) Has an annual average of not less than fifty percent (50%) of guests who are not residents of the Commonwealth;

  (c) Is in operation and open to the public no less than three hundred (300) days per year and for no less than eight (8) hours per day;

  (d) Has food and nonalcoholic drink options that constitute a minimum of fifty percent (50%) of total gross sales receipts; and

(e) 1. Has seating capacity of four hundred fifty (450) guests and offers live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public;

2. Within three (3) years of the completion date pursuant to KRS 148.859(1)(b), holds a top two (2) tier rating by a nationally accredited service; or

3. Offers a unique dining experience that is not available in the Commonwealth within a one hundred (100) mile radius of the attraction;

(13) "Tourism attraction" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and products center, a theme restaurant destination attraction, or an entertainment destination center. A tourism attraction shall not include any of the following:

(a) Lodging facilities, unless:

1. The facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project, or the facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency;

2. The facilities involve the restoration or rehabilitation of a structure that is listed individually in the National Register of Historic Places or are located in a National Register Historic District and certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by the Kentucky Heritage Council;

3. The facilities involve the reconstruction, restoration, rehabilitation, or upgrade of a full-service lodging facility having not less than five hundred (500) guest rooms, with reconstruction, restoration, rehabilitation, or upgrade costs exceeding ten million dollars ($10,000,000);

4. The facilities involve the construction, restoration, rehabilitation, or upgrade of a full-service lodging facility which is or will be an integral part of a major convention or sports facility, with construction, restoration, rehabilitation, or upgrade costs exceeding six million dollars ($6,000,000); or

5. The facilities involve the construction, restoration, rehabilitation, or upgrade of a lodging facility which is or will be located:

a. In the Commonwealth within a fifty (50) mile radius of a property listed on the National Register of Historic Places with a current function of recreation and culture; and

b. Within any of the one hundred (100) least populated counties in the Commonwealth, in terms of population density, according to the most recent census;

(b) Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, a theme restaurant destination attraction, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and

(c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and

(14) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

Section 25. KRS 148.855 is amended to read as follows:

(1) The secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 148.857(1) do not conflict.

(3) With respect to each eligible company making an application to the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars ($1,000,000), except for a theme restaurant destination attraction's project cost, which shall exceed five million dollars ($5,000,000), and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a

year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. If the tourism attraction project is an entertainment destination center, the sales tax refund shall be dedicated to a public infrastructure purpose that shall relate to the tourism attraction project and shall be approved by the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet. The applicant shall submit the public infrastructure purpose with its application. Based upon a review of these materials, if the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

(4) After receiving a preliminary approval by the authority, the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:

(a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth;

(b) Shall have costs in excess of one million dollars ($1,000,000), except for a theme restaurant destination attraction, which shall have costs in excess of five million dollars ($5,000,000);

(c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;

(d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year, except for a theme restaurant destination attraction, which shall be operating and open to the public for a minimum of three hundred (300) days per year; and

(e) Shall not adversely affect existing employment in the Commonwealth.

(5) The independent consulting firm shall consult with the authority, the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of a report on the proposed tourism attraction project. The Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the authority, the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify to the authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(6) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(7) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 26. KRS 148.857 is amended to read as follows:

(1) The authority shall establish standards for preliminary approval and final approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The authority shall consult with the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet when establishing standards to ensure that standards established pursuant to KRS 148.855(1) and subsection (1) of this section do not conflict.

(3) At the written request of the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and preliminarily authorizing the undertaking of the tourism attraction project.

(4) After the adoption of the authority's preliminary approval, an agent designated by the ***Commerce***~~[Tourism Development]~~ Cabinet shall hold at least one (1) public hearing to solicit public comments regarding the designation of an eligible company as a preliminarily approved company and the preliminary authorization for the undertaking of a tourism attraction project. Notice of the public hearing shall be given in accordance with KRS Chapter 424.

(5) The authority shall review the report of the consultant prepared pursuant to KRS 148.855(4), the recommendation of the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet, the report prepared by the agent documenting all comments, both written and oral, received at the public hearing required by subsection (4) of this section, and other information that has been made available to the authority in order to assist the authority in determining whether the tourism attraction

project will further the purposes of KRS 139.536 and KRS 148.851 to 148.860.

(6) The criteria for final approval of eligible companies and tourism attraction projects shall include, but not be limited to, the criteria set forth in KRS 148.855(4).

(7) After a review of the consultant's report, the recommendation of the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet and other information made available to the authority, the authority, by resolution, may give its final approval to the eligible company's application for a tourism attraction project and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(8) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 27. KRS 148.872 is amended to read as follows:

As used in KRS 148.870 to 148.892, unless the context otherwise requires:

(1) "Department" means the Kentucky Department of Parks within the ***Commerce***[~~Tourism Development~~] Cabinet;

(2) "Person" means an individual, trust, firm, estate, joint stock company, corporation, nonprofit corporation, government corporation, limited liability company, partnership, association, organization, government unit or agency whether federal, state, city, commission, or other political subdivision of the Commonwealth, any interstate body, group of persons acting in concert, or other legal entity;

(3) "Secretary" means the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet of the Commonwealth of Kentucky; and

(4) "Trail" means the Pine Mountain Trail State Park, as established in KRS 148.870.

Section 28. KRS 148.880 is amended to read as follows:

A fund for the purpose of carrying out the provisions of KRS 148.870 to 148.892 is hereby created, to be designated as the Pine Mountain Trail fund, and shall consist of all revenues derived from privileges, concessions, contracts, or otherwise, and all moneys received by gifts, contributions, donations, and grants from public or private sources. This shall be a trust and agency fund account maintained and disbursed by the ***Commerce***[~~Tourism Development~~] Cabinet to carry out the purposes of KRS 148.870 to 148.892, after appropriations are made for administration and other expenses and purposes provided in KRS 148.870 to 148.892. It shall not lapse, and interest earnings shall accrue to the fund.

Section 29. KRS 153.180 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.

(2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:

   (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.

   (b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.

(3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.

(4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.

(5) The foundation shall be attached to the office of the secretary ***of***[~~for~~] the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.

(6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the

sources of funds acquired and expended.

Section 30. KRS 153.215 is amended to read as follows:

(1) There is established the Kentucky Arts Council (hereinafter referred to as "the council") which shall perform functions pursuant to KRS 153.210 to 153.235.

(2) The purpose of the council shall be to develop and promote a broadly conceived state policy of support for the arts in Kentucky pursuant to KRS 153.210 to 153.235.

(3) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the arts. On July 1, 1972, the Governor shall appoint not more than four (4) members for a term of one (1) year; not more than four (4) members for a term of two (2) years; not more than four (4) members for a term of three (3) years; and not more than four (4) members for a term of four (4) years. Thereafter the Governor shall make all appointments for a term of four (4) years, except that of the members appointed after July 15, 1998, four (4) members appointed to fill the terms expiring July 1, 1999, shall serve until February 1, 2000; four (4) members appointed to fill the terms expiring July 1, 2000, shall serve until February 1, 2001; four (4) members appointed to fill the terms expiring July 1, 2001, shall serve until February 1, 2002; and members appointed to fill the terms expiring July 1, 2002, shall serve until February 1, 2003; and subsequent appointments shall be for four (4) year terms ending on February 1.

(4) Council members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties under KRS 153.210 to 153.235.

(5) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(6) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(7) The council shall be attached to the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet as an independent administrative body.

(8) The council shall be headed by an executive director appointed by the secretary of the Education, Arts, and Humanities Cabinet upon recommendation of the council.

Section 31. KRS 153.410 is amended to read as follows:

(1) The Kentucky Center for the Arts Corporation is hereby established, and shall consist of fifteen (15) members representing metropolitan Louisville and Kentucky to be appointed by the Governor, who shall also designate a chairman. Initial terms shall be staggered; thereafter, members shall be appointed to four (4) year terms.

(2) Members may be removed by the Governor only for cause after being afforded notice, a hearing with counsel before the Governor or his designee, and a finding of fact by the Governor. A copy of charges, transcript of the record of the hearings, and findings of fact shall be filed with the Secretary of State.

(3) The Kentucky Center for the Arts Corporation shall be a body corporate with full corporate powers. A quorum of the corporation shall consist of eight (8) members, with a majority of members present authorized to act upon any matter legally before the corporation. Full minutes and records shall be kept of all meetings of the corporation and all official actions shall be recorded.

(4) The corporation may enact bylaws concerning the election of other officers, the creation of an executive committee with full authority to act between regular meetings, and the designation of alternates for members with full voting authority.

(5) The corporation shall be attached to the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet for administrative purposes.

Section 32. KRS 154.10-010 is amended to read as follows:

(1) (a) The Kentucky Economic Development Partnership, a board governing the Cabinet for Economic Development, is created and established, performing essential governmental and public functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through sustainable economic development, as prescribed in KRS 154.01-020.

(b) The board shall have reorganization powers and authority as prescribed in KRS 12.028 and shall constitute an administrative body as defined in KRS 12.010, but it and the cabinet shall not be subject to the reorganization by the Governor, KRS Chapter 12 notwithstanding.

(c) The board shall serve as the governing body of the cabinet and shall exercise all powers and authorities conferred upon it by statute, including, but not limited to, the following functions:

1. Strategic planning;
2. Finance;
3. Business assistance;
4. Marketing and promotion;
5. Community development;

6. Workforce development;

7. Innovation; and

8. All economic development powers and authorities not specifically conferred by statute to another agency or authority of state government.

(2) The board shall consist of eleven (11) voting members and two (2) nonvoting members. The eleven (11) voting members shall consist of the Governor, the secretary of the Finance and Administration Cabinet, the secretary of the Natural Resources and Environmental Protection Cabinet, and eight (8) private sector members who shall be appointed by the Governor. The secretary of the Governor's Executive Cabinet shall serve as a voting member upon the absence of the Governor. The secretary of the Cabinet for Economic Development and the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet shall serve as nonvoting members.

(3) By no later than thirty (30) days after July 14, 1992, the governing bodies of each of the following organizations shall meet and nominate two (2) persons from each of the six (6) Congressional districts of the Commonwealth and two (2) persons from the state at large, as candidates for the initial appointment as private sector members to the board:

(a) The Kentucky Industrial Development Council;

(b) The Associated Industries of Kentucky;

(c) The Kentucky State AFL-CIO;

(d) The Kentucky Farm Bureau Federation;

(e) The Kentucky Chamber of Commerce; and

(f) The Kentucky Economic Development Corporation.

(4) The Governor shall select the original eight (8) private sector members from the aggregation of the lists provided pursuant to subsection (3) with at least one (1) appointment being chosen from each organization's list and at least one (1) appointment being chosen from each Congressional district. After the initial appointments, appointments to vacancies shall be made in the same manner as prescribed in subsection (3) of this section, except that there is no requirement that the vacancy be filled from the same organization's list as the original appointment.

(5) The terms of office of the initial appointments of the private sector members to the board shall be staggered so that one-fourth (1/4) of all appointments shall expire one (1), two (2), three (3), and four (4) years, respectively, from the date of their appointment. All succeeding appointments shall be for four (4) years.

(6) In making appointments to the board, the Governor shall assure broad geographical representation, as well as representation from the major sectors of Kentucky's economy by leading executives with a knowledge of the problems of large and small businesses, local economic development, and the transfer of research and development from the laboratory to the marketplace. In filling vacancies, the Governor shall attempt to assure the continuing representation on the board of broad constituencies of Kentucky's economy, including manufacturing and agriculture.

(7) Vacancies on the board which may occur from time to time shall be filled as follows:

(a) Any vacancy which occurs shall be filled for the unexpired term in accordance with the procedures established for the original appointment.

(b) If any private sector member misses more than two (2) consecutive meetings of the board, then that position shall be declared vacant and filled in accordance with this section.

(8) The board shall meet quarterly and at other times upon call of the chairman or a majority of the board.

(9) A quorum shall be a majority of the voting membership of the board.

(10) A quorum shall be required to organize and conduct the business of the board, except that an affirmative vote of seven (7) or more members of the entire board shall be required to fire the cabinet's secretary, and to adopt or amend the strategic plan.

(11) Private sector members shall serve without compensation but shall be reimbursed for all reasonable, necessary, and actual expenses.

(12) All existing duties, responsibilities, functions, personnel, programs, funds, obligations, records, and real and personal property of the Cabinet for Economic Development, as of July 14, 1992, shall be under the authority and control of the board.

Section 33. KRS 154.12-250 is amended to read as follows:

(1) The Kentucky Coal Council is established within the Office of the ***Secretary of the Commerce Cabinet***[~~Governor~~]. The council shall provide direction to the Governor in marketing efforts targeted to increasing opportunities for Kentucky coal and other products and it shall carry out other duties and responsibilities as assigned by the Governor.

(2) The Office of Coal Marketing and Export is established within the Office of the ***Secretary of the Commerce Cabinet***[~~Governor~~]. The office shall carry out the purposes of the council and provide other staff support as is deemed necessary.

(3) All personnel, equipment, supplies, and records relating to the Kentucky Coal Council shall be transferred to the Office of

the Secretary of the Commerce Cabinet[~~Coal Marketing and Export in the Office of the Governor~~].

Section 34. KRS 154.33-603 is amended to read as follows:

(1) The corporation shall be governed by a board of directors consisting of seven (7) voting members and three (3) ex officio members as follows:

(a) Three (3) members representing the three (3) county governments, one (1) to be appointed by the county judge/executive of Knott County, one (1) to be appointed by the county judge/executive of Letcher County, and one (1) to be appointed by the county judge/executive of Perry County;

(b) Three (3) members appointed by the Governor, one (1) each from Knott, Letcher, and Perry Counties;

(c) The secretary of the Finance and Administration Cabinet, or his or her designee, as a voting member;

(d) The secretary of the ***Commerce***[~~Tourism Development~~] Cabinet, or his or her designee, as an ex officio, nonvoting member;

(e) The secretary of the Cabinet for Economic Development, or his or her designee, as an ex officio, nonvoting member; and

(f) The commissioner of the Department for Local Government, or his or her designee, as an ex officio, nonvoting member.

(2) Appointed members shall serve staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:

(a) One (1) member appointed by the Governor and the member appointed by the county judge/executive of Knott County shall each serve a term of four (4) years;

(b) One (1) member appointed by the Governor and the member appointed by the county judge/executive of Letcher County shall each serve a term of three (3) years;

(c) The one (1) member appointed by the county judge/executive of Perry County shall serve a term of two (2) years; and

(d) One (1) member appointed by the Governor shall serve a term of one (1) year.

(3) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B.

(4) Members of the board shall serve without compensation but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

Section 35. KRS 154.47-050 is amended to read as follows:

The Kentucky Wood Products Competitiveness Corporation shall work in cooperation with the Department of Parks of the ***Commerce***[~~Tourism Development~~] Cabinet to:

(1) Develop and design Kentucky-made furniture for use in state parks;

(2) Make state parks facilities living showrooms for Kentucky furniture and other wood products; and

(3) Establish retail showrooms where Kentucky-made furniture and other wood products can be displayed for sale to, or order by, park visitors.

Section 36. KRS 171.3801 is amended to read as follows:

(1) There is established the Kentucky Heritage Council (hereinafter referred to as "the council") which shall perform the functions specified in KRS 171.381.

(2) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the preservation and protection of Kentucky's heritage. On or before September 15, 1982, the Governor shall appoint not more than four (4) members for a term of one (1) year, not more than four (4) members for a term of two (2) years, not more than four (4) members for a term of three (3) years, and not more than four (4) members for a term of four (4) years. Thereafter, the Governor shall make all appointments for a term of four (4) years.

(3) Council members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(4) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(5) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(6) The council shall be attached to the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet for administrative purposes.

(7) The Heritage Council shall include a heritage division, whose duties shall include providing staff services needed by the Heritage Council in order to perform its duties under KRS 171.381, including but not limited to preserving and protecting buildings, sites and other landmarks associated with the archaeological, cultural, economic, military, national, political and

social aspects of Kentucky's history.

(8) The heritage division shall be headed by a director appointed by the Governor from a list of three (3) nominees submitted by the Heritage Council; and the Heritage Council and the heritage division shall not be subject to reorganization.

Section 37. KRS 171.812 is amended to read as follows:

The commission shall coordinate Kentucky's Underground Railroad initiative in accordance with KRS 171.805. The commission's duties as they relate to this initiative shall include but not be limited to the following:

(1) Undertake a comprehensive statewide inventory of historic sites related to the Underground Railroad, and implement a master plan for site protection and development;

(2) Encourage and assist the state preservation officer within the Kentucky Heritage Council to nominate significant historical sites of the Kentucky Underground Railroad to the national and state registers of historic places;

(3) Develop and operate, in conjunction with the ***Commerce***[~~Tourism Development~~] Cabinet, a program of public information, education, and promotion of the history of the Underground Railroad in Kentucky, to include but not be limited to implementing and maintaining a website connected to the ***Commerce***[~~Tourism Development~~] Cabinet;

(4) Coordinate with local, state, and federal authorities in project planning that may affect Underground Railroad sites in Kentucky and neighboring states;

(5) Consider the council's recommendations and, contingent on review by the council, present to the secretary of the Education, Arts, and Humanities Cabinet an annual report and plan for future action; and

(6) Pursue public and private funds to carry out the duties set forth in this section.

Section 38. KRS 171.814 is amended to read as follows:

An Underground Railroad Advisory Council shall be established within the commission.

(1) The council shall consist of thirteen (13) members, as follows:

 (a) Secretary of the Education, Arts, and Humanities Cabinet, or designee;

 (b) Secretary of the ***Commerce***[~~Tourism Development~~] Cabinet, or designee;

 (c) Secretary of the Transportation Cabinet, or designee;

 (d) Director of the Kentucky Historical Society, or designee;

 (e) State historic preservation officer of the Kentucky Heritage Council, or designee;

 (f) Chair of the commission or designee;

 (g) Director of the Underground Railroad Institute at Georgetown College, or designee;

 (h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;

 (i) Two (2) at-large representatives who hold an interest in the protection, preservation, and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor;

 (j) One (1) member of the board or staff of the National Underground Railroad Freedom Center who resides within a county of the Northern Kentucky Area Development District; and

 (k) One (1) member of the board or staff of the National Underground Railroad Museum who resides within a county of the Buffalo Trace Area Development District.

(2) The duties of the council shall be to:

 (a) Advise and assist the commission with respect to issues and opportunities related to the Underground Railroad; and

 (b) Annually review and make recommendations to the commission on the annual report and plan for future action.

(3) Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.

(4) The chair of the commission shall serve as chair of the council.

(5) The council shall meet annually or more frequently at the request of the chair.

(6) Six (6) members shall constitute a quorum for conducting business.

(7) In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.

(8) Members of the council shall serve without compensation.

Section 39. KRS 176.500 is amended to read as follows:

(1) The Mississippi River Parkway Commission of Kentucky is hereby established to serve as the local coordinating agency for the development of the Great River Road along the Mississippi River from Canada to the Gulf of Mexico. The commission shall be attached to the Office of the Secretary of the ***Commerce***[~~Tourism Development~~] Cabinet for

administrative purposes.

(2) The commission shall consist of the following ten (10) members: Four (4) citizen members, appointed by the Governor, and consisting of one (1) member from each of the four (4) counties that border the Mississippi River, who shall serve a term of four (4) years and may serve until a successor is appointed. Four (4) members shall be the respective county judges/executive of Ballard, Carlisle, Fulton, and Hickman Counties in Kentucky. Other members shall be the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet or his designee; and the secretary of the Transportation Cabinet, or his designee. The commission shall annually elect a chairman and shall meet quarterly or upon call of the chairman with ten (10) days' written notice. Six (6) members present shall constitute a quorum for the official conduct of business. The commission may enter into contracts with the Purchase Area Development District to provide administrative services.

(3) Members shall receive no compensation but shall be reimbursed according to state regulations for actual and necessary expenses incurred in conducting commission business.

(4) The commission shall assure that the proper direction is taken in developing a corridor of scenic, historical, and archaeological significance through the Kentucky counties of Ballard, Carlisle, Hickman, and Fulton.

Section 40. KRS 177.107 is amended to read as follows:

The Transportation and Tourism Interagency Committee is established to foster close collaboration between the ***Commerce***[~~Tourism Development~~] Cabinet and the Transportation Cabinet on policies that affect the tourism industry and to place strong emphasis on the coordination of mutual interests such as highway signage, scenic byways, highway safety, and concern for the Commonwealth's beauty and heritage.

Section 41. KRS 177.108 is amended to read as follows:

(1) The Transportation and Tourism Interagency Committee shall be composed of thirteen (13) members or their official appointed designees, as follows:
   (a) Six (6) members appointed by the secretary of the ***Commerce***[~~Tourism~~] Cabinet;
   (b) Six (6) members appointed by the secretary of the Transportation Cabinet; and
   (c) One (1) member appointed by the executive director of the Kentucky Heritage Council.

(2) Committee members shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with the performance of their duties and functions as committee members.

(3) The committee shall elect its chair and vice chair from representatives of the ***Commerce***[~~Tourism Development~~] and Transportation Cabinets for a term of one (1) year. The vice chair shall succeed the chair. The chair shall alternately be a representative of the ***Commerce***[~~Tourism Development~~] and Transportation Cabinets.

(4) The committee shall meet upon the call of the chair and upon the request of the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet or the secretary of the Transportation Cabinet.

(5) A committee member may appoint a proxy for an individual meeting, delegating to the proxy the privilege of voting on any issue. The proxy appointment shall be in writing.

Section 42. KRS 177.109 is amended to read as follows:

The Transportation and Tourism Interagency Committee shall have, but not be limited to, the following duties and responsibilities:

(1) Review Kentucky's signage laws, administrative regulations, and policies implementing the federal "Manual on Uniform Traffic Control Devices" and submit any proposed revisions to the secretary of the Transportation Cabinet;

(2) Seek public comment on Kentucky's signage laws, administrative regulations, and policies;

(3) Advise the Transportation Cabinet on the scenic byways and highways program;

(4) Review and make recommendations on requests for highway signage from tourism-related entities;

(5) Coordinate development of the tourism information potential of welcome centers and rest areas through such means as interactive videos, information kiosks, and highway advisory radio transmitters, as well as other innovative methods which may be identified by the committee;

(6) Monitor developments across the United States relating to billboards and official signs;

(7) Report to the secretary of the Transportation Cabinet and to the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet on issues of mutual interest to the cabinets;

(8) Serve as an advisory committee on issues identified by the secretary of the Transportation Cabinet and secretary of the ***Commerce***[~~Tourism Development~~] Cabinet; and

(9) Report committee recommendations to the secretary of the Transportation Cabinet, the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet, the secretary of the Education, Arts, and Humanities Cabinet, and the secretary of the Executive Cabinet.

Section 43. KRS 177.573 is amended to read as follows:

The Transportation Cabinet, in coordination with the ***Commerce***[~~Tourism Development~~] Cabinet and the Kentucky Heritage

Council, shall promulgate administrative regulations under KRS Chapter 13A to establish:

(1) Specific criteria for a road to be designated a scenic byway or a scenic highway;

(2) A process for nominating and review of a road as a scenic byway or scenic highway;

(3) A process for designating a road as a scenic byway or scenic highway; and

(4) A process to remove the scenic designation from a byway or highway if the intrinsic qualities of the road change or if the community affected by the road requests the scenic designation to be removed.

Section 44. KRS 194B.110 is amended to read as follows:

(1) The Kentucky Commission on Human Services Collaboration is hereby created and is attached to the Cabinet for Families and Children for administrative purposes. The commission shall develop, adopt, and amend, as appropriate, a service coordination plan to promote health, education, and social services partnerships of public and private agencies. The commission shall coordinate, evaluate, and provide technical assistance in implementing the service coordination plan.

(2) The commission shall coordinate and facilitate development of community partnership strategic plans, which are designed to implement the service coordination plan.

(3) The commission shall coordinate and facilitate development of outcomes to be achieved by community partnerships as outlined in the service coordination plan and report on progress toward achieving results.

(4) The commission shall also work to increase the efficiency and effectiveness of services to individuals, families and children through the identification and elimination of duplicative boards and commissions, which exercise overlapping responsibilities, and the identification of gaps in and barriers to the provision and receipt of human services. The commission shall provide technical assistance to communities.

(5) The commission shall report to the Legislative Research Commission and the General Assembly by October 1 of each year on the following:

(a) The coordination plan;
(b) The community partnership strategic plans;
(c) The increase in the efficiency and effectiveness of services;
(d) The boards and commissions eliminated;
(e) The boards and commissions identified as duplicative; and
(f) The identified gaps and barriers to provision and receipt of human services.

(6) The commission shall consist of the following members:

(a) The Governor's designee;
(b) The secretary of the Cabinet for Families and Children;
(c) The secretary for the Cabinet for Health Services;
(d) The secretary of the Cabinet of Economic Development;
(e) The secretary of the Justice Cabinet;
(f) The secretary of Arts, Education and Humanities;
(g) The secretary of the ***Commerce***[~~Tourism~~] Cabinet;
(h) The secretary of the Cabinet for Workforce Development;
(i) The commissioner of education;
(j) The commissioner of juvenile justice;
(k) The director of the Administrative Office of the Courts;
(l) Seven (7) gubernatorial appointees, representing business, community leaders, and consumers; and
(m) The chair for the Council on State and Local Collaboratives.

(7) Members who hold state government positions shall serve by virtue of their offices. The remaining initial members of the commission shall be designated by the Governor to serve for a term ranging from one (1) to four (4) years. Subsequent appointments to the commission shall be for four (4) year terms and limited to two (2) consecutive four (4) year terms.

(8) The Governor shall designate a member of the public appointed to the commission to serve as chair of the commission for a term of two (2) years. Thereafter, a chair shall be selected by the members of the commission from the members of the public appointed by the commission. The chair shall serve for a period of two (2) years.

(9) The chair of the commission, following consultation with the cabinet secretaries and upon agreement of the commission, may designate work groups to make recommendations to the commission regarding parental and community involvement and its mission.

(10) Staff assistance shall be provided to the commission through the cooperative efforts of the members of the commission serving in the executive cabinet. Primary staff assistance shall be the responsibility of the Cabinet for Families and

Children.

(11) Members of the commission shall be eligible to receive travel expenses while attending meetings of the commission in accordance with state travel regulations. Members of committees appointed by the commission shall be eligible for reimbursement of travel expenses incurred while attending committee or commission meetings in accordance with state travel regulations.

(12) The commission shall cease to exist two (2) years after July 15, 1998, unless otherwise reauthorized by the General Assembly.

Section 45. KRS 235.010 is amended to read as follows:

As used in this chapter, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, except for the following:

(a) Boats or vessels propelled totally by a direct current battery-powered motor when used on private waters;

(b) Boats propelled by human power employing the use of hand or foot operation; and

(c) Federally regulated commercial vessels;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) "Personal watercraft" means a vessel which uses an internal combustion engine to power a jet pump for its primary source of propulsion and is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than to be operated by a person sitting or standing inside the vessel;

(5) "Safe boating certificate" means a document attesting the successful completion of instruction, approved by the department or given by the United States Coast Guard or Coast Guard Auxiliary or the United States Power Squadron, to prepare an individual to safely operate a motorboat or personal watercraft on the waters of the Commonwealth;

(6) "Waters of this state" means any waters within the territorial limits of this state;

(7) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(8) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(9) "Cabinet" means the ***Commerce***[~~Tourism Development~~] Cabinet;

(10) "Department" means the Department of Fish and Wildlife Resources;

(11) "License" and "certificate of number" as used herein are synonymous;

(12) "Clerk" means county clerk;

(13) "Division of Law Enforcement" means the Division of Law Enforcement, Department of Fish and Wildlife Resources within the ***Commerce***[~~Tourism Development~~] Cabinet;

(14) "Title" means the certificate of title;

(15) "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources;

(16) "Federally regulated commercial vessel" means any vessel holding a United States certificate of documentation with a coastwise trade endorsement;

(17) "Marina" means a dock or basin providing moorings for motorboats and offering supply, repair, or other services for remuneration; and

(18) "Marine sanitation device" means equipment that is identified by the United States Coast Guard as meeting the standards of the United States Environmental Protection Agency or that is approved by the Natural Resources and Environmental Protection Cabinet, to eliminate the discharge of untreated sewage from vessels into the waters of the Commonwealth and is a device that receives, treats, retains, or discharges sewage.

Section 46. KRS 235.030 is amended to read as follows:

This chapter shall be known as the State Boating Act and shall be administered by the Department of Fish and Wildlife Resources in the ***Commerce***[~~Tourism Development~~] Cabinet, except the Transportation Cabinet shall be responsible for administering the boat numbering, registration, and titling requirements.

Section 47. KRS 235.130 is amended to read as follows:

(1) No person acting for himself or another shall buy or trade for any motorboat without receiving the certificate of title issued for that boat with a certificate of transfer ***endorsed***[~~indorsed~~] thereon. If the motorboat has not been issued a certificate of title as noted on the certificate of registration, the person shall receive a completed assignment of title on a boat transaction record and the certificate of registration.

(2) It shall be the duty of the purchaser to promptly submit the ***endorsed***[~~indorsed~~] certificate of title or boat transaction record

and certificate of registration to the county clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated. The purchaser shall apply for a new certificate of title and registration pursuant to KRS 235.050. The county clerk shall thereupon issue to the purchaser a transfer of registration bearing the same data and information. The clerk shall forward the ***endorsed***~~[indorsed]~~ certificate of title or boat transaction record and certificate of registration and new application for title and registration to the Transportation Cabinet. Except when registration is prohibited by law, any unexpired registration shall remain valid after transfer until expiration occurs according to law.

(3) For transferring the registration, the clerk shall collect a fee of five dollars ($5). The clerk shall retain two dollars ($2), the Transportation Cabinet shall receive two dollars ($2) and the Department of Fish and Wildlife Resources within the ***Commerce***~~[Tourism Development]~~ Cabinet shall receive one dollar ($1). The fee received by the Transportation Cabinet shall be deposited in a trust and agency account for use by the Transportation Cabinet in defraying the cost of implementing and operating the boat titling and registration program. The fee for transferring the title shall be as required by KRS 235.085.

(4) If a transferee does not promptly submit the necessary documents to the county clerk as required by law in order to complete the transfer transaction, a transferor may submit to the county clerk, after the passage of fifteen (15) calendar days, in his county of residence, an affidavit that he has transferred his interest in a specific motorboat and the clerk may enter appropriate data into the AVIS system which would restrict any registration transaction from occurring on that vehicle until the transfer was processed.

(5) If the owner junks or otherwise renders a motorboat unfit for future use, he shall deliver the title to the county clerk of the county in which the motorboat is junked. The county clerk shall immediately return the title to the Transportation Cabinet. The owner shall pay to the county clerk fifty cents ($0.50) for his services.

Section 48. KRS 247.800 is amended to read as follows:

The Department of Agriculture, in conjunction with the ***Commerce***~~[Tourism Development]~~ Cabinet, shall create an interagency Office of Agritourism to be housed in the Division of Agriculture Marketing, Agritourism, and Agribusiness Recruitment within the Office for Agricultural Marketing and Product Promotion in the Department of Agriculture. As used in KRS 247.800 to 247.810, agritourism means the act of visiting a working-farm or any agricultural, horticultural, or agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation. It shall be the purpose of the Office of Agritourism to:

(1) Promote agritourism in Kentucky to potential visitors, both national and international; and

(2) Assist in sustaining the viability and growth of the agritourism industry in Kentucky.

Section 49. KRS 247.802 is amended to read as follows:

The Office of Agritourism shall perform all duties necessary to carry out the purposes of KRS 247.800 to 247.810, including but not limited to:

(1) Within the first year of its creation, developing a statewide master plan for implementation of KRS 247.800 and this section. The Office of Agritourism shall report on the plan to the Agritourism Advisory Council at the request of the council;

(2) Developing a unified Kentucky agritourism marketing strategy between the Department of Agriculture and the ***Commerce***~~[Tourism Development]~~ Cabinet to promote Kentucky agritourism. The strategy shall include but not be limited to promotion of Kentucky agritourism through the creation of an agritourism Web site and advertisement through various media outlets;

(3) Coordinating efforts to educate the general public about the importance of Kentucky's agricultural heritage and industry;

(4) Developing regional agritourism development plans for each of the nine (9) tourism regions as follows:

(a) Bluegrass;

(b) Cave;

(c) Green River;

(d) Eastern Highlands-North;

(e) Eastern Highlands-South;

(f) Louisville-Lincoln;

(g) Northern Kentucky;

(h) Southern Lakes and Rivers; and

(i) Western Lakes and Rivers;

(5) Providing support, education, and resource materials for all interested persons, to include but not be limited to existing Kentucky agritourism businesses, displaced tobacco farmers and others engaged in agribusiness within the state, and other Kentuckians with the intent of developing an agritourism business. The agritourism office shall provide this assistance in the following areas, to include but not be limited to:

(a) Agritourism opportunities, networks, product development, and entrepreneurship;

(b) Agritourism funding opportunities, including but not limited to grants, loans, and partnerships; and

(c) Insurance and infrastructure concerns of the agritourism industry;

(6) Working and partnering with federal, state, and local organizations to carry out the purposes of KRS 247.800 to 247.810;

(7) Reporting to the Agritourism Advisory Council, as created in KRS 247.804, annually or at the request of the chair, and in accordance with subsection (1) of this section; and

(8) Considering the recommendations of the Agritourism Advisory Council, in accordance with KRS 247.806(2).

Section 50. KRS 247.804 is amended to read as follows:

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory Council shall be composed of:

(1) One (1) representative from each of the following entities:

(a) Department of Agriculture, appointed by the Commissioner of Agriculture;

(b) ***Commerce***~~[Tourism Development]~~ Cabinet, appointed by the secretary of the cabinet;

(c) Education, Arts, and Humanities Cabinet, appointed by the secretary of the cabinet;

(d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;

(e) University of Kentucky Cooperative Extension Service;

(f) West Kentucky Corporation;

(g) Kentucky Tourism Council;

(h) Kentucky Farm Bureau;

(i) Kentucky Association of Fairs and Horse Shows;

(j) East Kentucky Corporation;

(k) Southern and Eastern Kentucky Tourism Development Association;

(l) Licking River Valley Resource Conservation and Development Council;

(m) Buffalo Trace Covered Bridge Authority;

(n) Kentucky Chamber of Commerce; and

(o) Kentucky Council of Area Development Districts;

(2) The Governor, or a designee;

(3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and

(4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

Section 51. KRS 247.810 is amended to read as follows:

The Commissioner of Agriculture and the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A, as necessary to implement the provisions of KRS 247.800 to 247.810.

Section 52. KRS 260.165 is amended to read as follows:

(1) The Kentucky Grape and Wine Council is hereby created within the Department of Agriculture. The purpose of the council shall be to promote and facilitate the development of a grape industry in the Commonwealth of Kentucky.

(2) The council shall be composed of the Commissioner of Agriculture, or his designee, and nine (9) members appointed by the Governor. Of the nine (9) gubernatorial appointments, the Governor shall appoint one (1) from a list of three (3) candidates submitted by the director of the University of Kentucky Agriculture Experiment Station, one (1) from a list of three (3) candidates submitted by the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet, three (3) winery operators, and two (2) grape producers from a list of ten (10) candidates submitted by the Kentucky Vineyard Society and the Kentucky Grape and Wine Council.

(3) The appointed members shall serve for terms of four (4) years and until their successors are appointed and qualify. The council shall select a chairman and shall meet at the times and places that he designates. Five (5) members present at any meeting shall constitute a quorum. Upon the written request of any five (5) members, the chairman shall call a meeting of the council at the time and place requested.

(4) Members shall receive no compensation but shall be reimbursed, payable from the Kentucky Grape and Wine Council fund, for any actual travel expense incurred while attending meetings of the council.

Section 53. The following KRS sections are repealed:

148.815 State Parks Commission.

148.820 Meetings of commission -- Duties of commission.

148.825 Inspection of state park facilities by commission -- Access to grounds, buildings, and records.

Section 54. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 55. Any provision of law to the contrary notwithstanding, the General Assembly hereby confirms the portion of the Governor's Executive Order 2004-729, dated July 9, 2004, and the portion of the Governor's Executive Order 2004-1014, dated September 16, 2004, to the extent that they are not otherwise confirmed or superseded by this Act.

SB 41 was read for the first time by title and sponsor only and placed in the Calendar.

SB 41 is as follows:

SB 41, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development,~~[the Public Protection and Regulation Cabinet,]~~ the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet,~~[the Labor Cabinet,]~~ the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.
II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
(a) Department of State Police.
(b) Department of Criminal Justice Training.
(c) Department of Corrections.
(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) Offices of the Deputy Secretaries.
(g) Office of General Counsel.
(h) Division of Kentucky State Medical Examiners Office.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
(1) Kentucky Board of Education.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.
3. ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet:
(a) ***Office of the Secretary***~~[Environmental Quality Commission]~~.
1. Office of Legislative and Intergovernmental Affairs.
2. Office of Communications and Public Outreach.
3. Office of Regulatory Affairs.
4. Office of Legal Services.
5. Office of Administrative and Information Services.
6. Office of Administrative Hearings.
7. Office of Inspector General.
8. Mine Safety Review Commission.
9. Workers' Compensation Board.
10. Kentucky State Nature Preserves Commission.
11. Kentucky Environmental Quality Commission.
(b) ***Department for Environmental Protection***~~[Kentucky Nature Preserves Commission]~~.
1. Office of the Commissioner.
2. Division of Air Quality.
3. Division of Water.

4. Division of Environmental Services.
5. Division of Waste Management.
6. Division of Enforcement.
7. Division of Compliance Assistance.

(c) Department for *Natural Resources*[~~Environmental Protection~~].
1. Office of the Commissioner.
2. Office of Technical and Administrative Support.
3. Division of Mine Permits.
4. Division of Mine Reclamation and Enforcement.
5. Division of Abandoned Mine Lands.
6. Division of Oil and Gas Conservation.
7. Office of Mine Safety and Licensing.
8. Division of Forestry.
9. Division of Energy.
10. Division of Conservation.

(d) Department *of Public Protection*[~~for Natural Resources~~].
1. Office of the Commissioner.
2. Division of Administrative Services.
3. Crime Victims Compensation Board.
4. Board of Claims.
5. Board of Tax Appeals.
6. Kentucky Athletic Commission.
7. Kentucky Horse Racing Authority.
8. Kentucky Public Service Commission.
9. Office of Alcoholic Beverage Control.
10. Office of Charitable Gaming.
11. Office of Financial Institutions.
12. Office of Housing, Buildings and Construction.
13. Office of Insurance.

(e) Department *of Labor*[~~for Surface Mining Reclamation and Enforcement~~].
1. Office of the Commissioner.
2. Office of Occupational Safety and Health.
3. Office of Labor Management Relations and Mediation.
4. Office of Workplace Standards.
5. Office of Workers' Claims.
6. Workers' Compensation Funding Commission.
7. Kentucky Labor Management Advisory Council.
8. Occupational Safety and Health Standards Board.
9. Prevailing Wage Review Board.
10. Kentucky Employee's Insurance Association.
11. Apprenticeship and Training Council.
12. State Labor Relations Board.
13. Kentucky Occupational Safety and Health Review Commission.
14. Workers' Compensation Advisory Council.
15. Workers' Compensation Nominating Commission.
16. Employer's Mutual Insurance Authority.

[~~(f) Office of Legal Services.~~
~~(g) Office of Information Services.~~
~~(h) Office of Inspector General.~~]

4. Transportation Cabinet:
   (a) Department of Highways.
      1. Office of Program Planning and Management.
      2. Office of Project Development.
      3. Office of Construction and Operations.
      4. Office of Intermodal Programs.
      5. Highway District Offices One through Twelve.
   (b) Department of Vehicle Regulation.
   (c) Department of Administrative Services.
   (d) Department of Fiscal Management.
   (e) Department of Rural and Municipal Aid.
   (f) Department of Human Resources Management.
   (g) Office of the Secretary.
   (h) Office of General Counsel and Legislative Affairs.
   (i) Office of Public Affairs.
   (j) Office of Transportation Delivery.
   (k) Office of Minority Affairs.
   (l) Office of Policy and Budget.
   (m) Office of Technology.
   (n) Office of Quality.
   (o) Office of the Transportation Operations Center.
5. Cabinet for Economic Development:
   (a) Department of Administration and Support.
   (b) Department for Business Development.
   (c) Department of Financial Incentives.
   (d) Department of Community Development.
   (e) Department for Regional Development.
   (f) Tobacco Research Board.
   (g) Kentucky Economic Development Finance Authority.

6.[~~Environmental and Public Protection Cabinet:~~
   ~~(a) Public Service Commission.~~
   ~~(b) Department of Insurance.~~
   ~~(c) Department of Housing, Buildings and Construction.~~
   ~~(d) Department of Financial Institutions.~~
   ~~(e) Department of Mines and Minerals.~~
   ~~(f) Department of Public Advocacy.~~
   ~~(g) Department of Alcoholic Beverage Control.~~
   ~~(h) Kentucky Horse Racing Authority.~~
   ~~(i) Board of Claims.~~
   ~~(j) Crime Victims Compensation Board.~~
   ~~(k) Kentucky Board of Tax Appeals.~~
   ~~(l) Office of Petroleum Storage Tank Environmental Assurance Fund.~~
   ~~(m) Department of Charitable Gaming.~~
   ~~(n) Mine Safety Review Commission.~~

~~7.~~] Cabinet for Families and Children:
   (a) Department for Community Based Services.
   (b) Department for Disability Determination Services.
   (c) Public Assistance Appeals Board.

(d) Office of the Secretary.
  (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Human Resource Management.

7.[~~8.~~] Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

8.[~~9.~~] Finance and Administration Cabinet:
(a) Office of Financial Management.
(b) Office of the Controller.
(c) Department for Administration.
(d) Department of Facilities Management.
(e) State Property and Buildings Commission.
(f) Kentucky Pollution Abatement Authority.
(g) Kentucky Savings Bond Authority.
(h) Deferred Compensation Systems.
(i) Office of Equal Employment Opportunity Contract Compliance.
(j) Office of Capital Plaza Operations.
(k) County Officials Compensation Board.
(l) Kentucky Employees Retirement Systems.
(m) Commonwealth Credit Union.
(n) State Investment Commission.
(o) Kentucky Housing Corporation.
(p) Governmental Services Center.
(q) Kentucky Local Correctional Facilities Construction Authority.
(r) Kentucky Turnpike Authority.
(s) Historic Properties Advisory Commission.
(t) Kentucky Tobacco Settlement Trust Corporation.
(u) Eastern Kentucky Exposition Center Corporation.
(v) State Board for Proprietary Education.

9.[~~10. Labor Cabinet:~~
~~(a) Department of Workplace Standards.~~
~~(b) Department of Workers' Claims.~~
~~(c) Kentucky Labor-Management Advisory Council.~~
~~(d) Occupational Safety and Health Standards Board.~~
~~(e) Prevailing Wage Review Board.~~
~~(f) Workers' Compensation Board.~~

~~(g) Kentucky Employees Insurance Association.~~
~~(h) Apprenticeship and Training Council.~~
~~(i) State Labor Relations Board.~~
~~(j) Kentucky Occupational Safety and Health Review Commission.~~
~~(k) Office of Administrative Services.~~
~~(l) Office of Information Technology.~~
~~(m) Office of Labor-Management Relations and Mediation.~~
~~(n) Office of General Counsel.~~
~~(o) Workers' Compensation Funding Commission.~~
~~(p) Employers Mutual Insurance Authority.~~
~~11.~~] Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.
10.[~~12.~~] Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.
11.[~~13.~~] Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.
(g) The Foundation for Adult Education.
(h) Department for Training and Reemployment.
(i) Office of General Counsel.
(j) Office of Communication Services.
(k) Office of Workforce Partnerships.
(l) Office of Workforce Analysis and Research.
(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.
12.[~~14.~~] Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.

(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6)[~~ Public Protection and Regulation Cabinet.~~
~~(7)~~] Cabinet for Health Services.
(7)[~~(8)~~] Cabinet for Families and Children.
(8)[~~(9)~~] Finance and Administration Cabinet.
(9)[~~(10)~~] Tourism Development Cabinet.
(10)[~~(11)~~] Revenue Cabinet.
[~~(12) Labor Cabinet.~~]
(11)[~~(13)~~] Cabinet for Workforce Development.
(12)[~~(14)~~] Personnel Cabinet.

SECTION 4. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

There is established in the Office of the Secretary, an Office of Communications and Public Outreach, an Office of Administrative Hearings, an Office of Regulatory Affairs, an Office of Legislative and Intergovernmental Affairs, an Office of Inspector General, an Office of Legal Services, and an Office of Administrative and Information Services. Each office shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive directors shall be directly responsible to the secretary and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary. The Workers' Compensation Board shall be attached to the Office of the Secretary. The Environmental Quality Commission, which shall be headed by an executive director appointed by the secretary with the approval of the Governor, shall be attached to the Office of the Secretary. The Kentucky State Nature Preserves Commission, which shall be headed by a director, and the Mine Safety Review Commission, whose members shall be appointed by the Governor with the consent of the General Assembly, shall be attached to the Office of the Secretary.

SECTION 5. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

In addition to the powers and duties set out in this and other chapters of the Kentucky Revised Statutes that are vested in the cabinet and the secretary to protect and enhance the state's natural resources and environment, the cabinet and the secretary

are also vested with the powers and duties previously vested in the Public Protection and Regulation Cabinet and the Labor Cabinet, and the secretaries of those cabinets, so long as those powers and duties are not contrary to or in conflict with the organization of the cabinet established by statute or by executive order of the Governor, as ratified by the General Assembly.

Section 6. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of ***twenty-five (25)***[~~twenty-six (26)~~] members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;

14.[~~The secretary of the Public Protection and Regulation Cabinet or his designee;~~
~~15.~~] The secretary of the Tourism Development Cabinet or his designee;

15.[~~16.~~] Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;

16.[~~17.~~] Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;

17.[~~18.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

18.[~~19.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

19.[~~20.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

20.[~~21.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

21.[~~22.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

22.[~~23.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 7. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, ***executive directors,*** principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Auditor of Public Accounts; and

(h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally; and

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public.

Section 8. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) Cabinet for Health Services

1. Office of Certificate of Need

a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B

b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for Families and Children

1. Department for Community Based Services

a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630

2. Department for Disability Determination Services

a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet

1. Department of State Police

a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

2. Department of Corrections

a. Parole Board hearings conducted under authority of KRS Chapter 439

b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197

3. Department of Juvenile Justice

a. Supervised placement revocation hearings conducted under KRS Chapter 635

(e)[~~Labor Cabinet~~

~~1. Department of Workers' Claims~~

~~a. Workers' compensation hearings conducted under authority of KRS Chapter 342~~

~~(f)~~] ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet

1. Department for ***Natural Resources***[~~Surface Mining Reclamation and Enforcement~~]

a. Surface mining hearings conducted under authority of KRS Chapter 350

2. Department for Environmental Protection

a. Wild River hearings conducted under authority of KRS Chapter 146

b. Water resources hearings conducted under authority of KRS Chapter 151

c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223

d. Environmental protection hearings conducted under authority of KRS Chapter 224

3. Office of Workers' Claims

a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f)[~~(g)~~] Kentucky Occupational Safety and Health Review Commission

1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(g)[~~(h)~~] ***Department of*** Public Protection[~~ and Regulation Cabinet~~]

1. Board of Claims

a. Liability hearings conducted under authority of KRS Chapter 44

2. Public Service Commission

a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(h)[~~(i)~~] Cabinet for Workforce Development

1. Department for Employment Services

a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(i)[~~(j)~~] Secretary of State

1. Registry of Election Finance

a. Campaign finance hearings conducted under authority of KRS Chapter 121

(j)[~~(k)~~] State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
3. Campus residency hearings conducted under authority of KRS Chapter 164
4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 9. KRS 15.255 is amended to read as follows:

(1) The Department of Law shall have the following powers, duties and functions:

(a) To prevent or remedy damage to the environment caused by any person, group, partnership, association, body corporate or politic, or any agency, department, board, commission, division, or authority, whether state or federal, or by commencing or intervening in any suit or action in state or federal courts, whether civil or criminal, to enforce any statute, ordinance, bylaw, or regulation, or to secure any common-law right or remedy;

(b) To counsel state agencies and commissions given the responsibility over environmental concerns including but not limited to the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet[~~, Department of Mines and Minerals,~~] and the Public Service Commission;

(c) To exercise the common-law powers of the Attorney General in protecting the environment;

(d) To bring public nuisance and other actions in Circuit Courts in the name of the Commonwealth upon complaint by private citizens, when in the opinion of the Attorney General the activity or activities complained of may have a substantial impact upon the environment of the Commonwealth; and

(e) To develop guidelines related to the proper investigation of sexual misconduct by professionals which may be adopted by professional licensure boards.

(2) Nothing in this section shall be interpreted to derogate from any existing common-law or statutory right or remedy against damage to the environment.

Section 10. KRS 39F.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "General rescue squad" means a rescue squad which performs one (1) or more of the following functions as a stated mission of the organization:

(a) Light duty rescue;

(b) Extrication of persons from vehicles;

(c) Water rescue and recovery operations not utilizing divers;

(d) Search for lost, trapped, or missing persons not utilizing dogs;

(e) Low angle rescue and recovery operations;

(f) High angle rescue and recovery operations.

(2) "Reports and notification" means the reporting and notification of any search and rescue mission to the appropriate agency or person in the manner as specified by this chapter.

(3) "Rescue" means gaining access, rendering appropriate care, and transporting of a person or persons by whatever means, to a safe environment for appropriate care.

(4) "Rescue squad" means any organization which engages in the search for lost persons, rescue of persons, rescue of persons who are trapped or who are in need of rescue services, search for and recovery of drowned persons, or any other rescue related activity. "Rescue squad" shall not include the rescue of persons from a fire by a fire department, the extrication of persons from a vehicle or other activities which an emergency medical technician, emergency medical technician first responder, or paramedic is authorized to perform pursuant to applicable statutes and administrative regulations, if the activities are performed by a person for an ambulance service or in the role of a first responder. If these activities are performed other than as a first responder or in the role of an ambulance service and are involved in rescue operations, they come within the purview of activities of a rescue squad.

(5) "Search" means the process of looking for a person or persons whose location is not precisely known, and who may be in distress.

(6) "Search and rescue" ("SAR") means the process of looking for a lost, missing, or overdue person or persons who may be in distress, and rendering care with the use of appropriately trained and adequately equipped personnel.

(7) "Search and rescue mission" includes, but is not limited to, searching for a missing or lost person or persons, cave rescue, high angle or rough terrain rescue, urban search and rescue, dive rescue and recovery of drowning victims, inland water search, rescue, and recovery. "Search and rescue" may also include any mission permitted pursuant to this chapter. A "search and rescue mission" does not include mine rescue missions under the jurisdiction of the Department ***for Natural Resources***[~~of Mines and Minerals~~] pursuant to KRS Chapter 351.

(8) "Specialized rescue squad" means a rescue squad which performs one (1) or more of the following functions as the primary or sole mission of the organization:

(a) Cave rescue;

(b) Search utilizing dogs for lost, trapped or missing persons;

(c) Search for lost, trapped or missing persons, aircraft, or vehicles, utilizing aircraft, but does not apply to licensed air ambulances, active or reserve military organizations, the National Guard, or the Civil Air Patrol; and

(d) Water rescue and recovery operations utilizing divers.

(9) "Victim recovery" means the search for and the removal to the jurisdiction of the coroner of the remains of a person known or believed to be dead. If the person is found alive, it includes rescue of the person.

Section 11. KRS 45A.610 is amended to read as follows:

[~~(1)~~]By January 1, 1991, a minimum of fifteen (15) percent of the purchases of garbage can liners by state agencies shall be starch-based plastic garbage can liners. The percentage shall increase by five (5) percent annually until fifty (50) percent of the purchase of garbage can liners are purchases of starch-based plastic garbage can liners.

[~~(2) The Natural Resources and Environmental Protection Cabinet shall perform tests and experiments to determine whether or not it is advantageous for the Commonwealth to require use of starch-based biodegradable products or containers. The cabinet shall report its findings to the 1992 Regular Session of the General Assembly.~~]

Section 12. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor, Lieutenant Governor, and the Superintendent of Public Instruction, the heads of departments***, offices,*** and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000

Commissioner of Agriculture	10,000
Secretary for education, arts, and humanities	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Commissioner[~~Secretary~~] of labor	5,000
Commissioner ***for natural resources***[~~of surface mining reclamation and enforcement~~]	50,000
State librarian	5,000
[~~Commissioner of mines and minerals~~	~~5,000~~]
Executive Director[~~Commissioner~~] of alcoholic beverage control	10,000
Executive Director[~~Commissioner~~] of financial institutions	25,000
Secretary for ***environmental and public protection***[~~natural resources and environmental protection~~]	10,000
Executive Director[~~Commissioner~~] of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health services	20,000
Secretary for families and children	20,000
Commissioner ***of***[~~for~~] environmental protection	10,000
Commissioner of[~~Secretary for~~] public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 13. KRS 68.178 is amended to read as follows:

(1) The fiscal court of any county may license off-site waste management facilities located within the county with the imposition of a license fee at a percentage rate not to exceed two percent (2%) per annum of the gross receipts of such a waste management facility owned or operated by self-employed individuals, partnerships, or corporations. The proceeds from the license fee shall be used to defray the general revenue requirements of the county where the facility is located. For purposes of assessing the licensing fee provided for in this section, off-site waste management shall consist of establishing and operating a facility whose principal purpose is treatment, storage, disposal, or a combination of these activities but shall not include those treatment, storage, or disposal activities which occur incidental to or which are not otherwise distinguishable from a broader manufacturing operation at the site of said operation.

(2) (a) The fiscal court of a county or the urban-county council of an urban-county government may license a solid waste landfill located within the county or urban-county area. The license fee may be set at not less than one cent ($0.01) but no more than fifty cents ($0.50) per ton of waste received by the landfill or set at up to five percent (5%) of gross receipts of the landfill.

(b) The license fee as set may be increased by an amount up to one-quarter (1/4) of the base fee per ton or on gross receipts of waste received at the landfill which originates from outside of the planning area. For purposes of this section, planning area shall mean those areas within Kentucky as indicated in solid waste management plans filed with the cabinet by a county, multicounty area, or waste management district. However, before a fee differential may be imposed the county or urban-county government shall demonstrate that the differential is reasonably related to additional government services which must be undertaken because of the landfilling of nonplanning area waste.

This demonstration may be made by showing an unplanned for reduction in waste disposal capacity and a need to provide for future disposal capacity or impacts on roads, litter control or emergency services.

(c) The proceeds from the license fee shall be used to defray the government services provided to the landfill, necessary clean-up operations or emergency responses related to operation of the landfill or transporting waste to the landfill, necessary maintenance, improvement or construction of roads, and for the general revenue requirements of the county or urban-county government where the landfill is located.

(d) ~~[Five percent (5%) of the license fee shall be remitted annually to the Natural Resources and Environmental Protection Cabinet until July 30, 1990. The cabinet shall use the amount received for state solid waste management activities.]~~Ten percent (10%) ***of the license fee*** shall be remitted annually in equal shares to all counties and urban-county governments in the planning area served by the landfill from where the fees originated which shall be used for local solid waste planning and plan implementation. Counties or urban-county governments desiring to impose the fee provided for herein are authorized to accept payments in lieu of the fee under duly-executed contracts between the county and the permitted site or facility. The fee provided for in this subsection shall be in lieu of the provisions of subsection (1). Special waste, as defined in KRS 224.50-760, except for waste from sanitary wastewater treatment facilities, shall be exempt from this subsection.

(3) In the case of hazardous waste facilities involving land disposal, including a regional integrated waste treatment and disposal demonstration facility as defined in KRS Chapter 224, the rate levied under this section shall be not more than five percent (5%) per annum of the gross receipts and shall be calculated so as to produce sufficient revenue to compensate the county for any additional costs incurred by it from having a hazardous waste facility located in its jurisdiction, including, but not limited to, the loss of ad valorem property tax revenues from the property on which the facility is located, the loss of ad valorem property tax revenues from abutting properties or other affected properties, the cost of providing any additional emergency services, the cost of monitoring air, surface water, ground water to the extent that other monitoring data is not available, and other costs established as being associated with the facility and for which the county is not otherwise compensated.

Section 14. KRS 131.190 is amended to read as follows:

(1) No present or former secretary or employee of the Revenue Cabinet, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the cabinet or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the secretary or any employee of the Revenue Cabinet from testifying in any court, or from introducing as evidence returns or reports filed with the cabinet, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The secretary or the secretary's designee may provide an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer.

(2) The secretary shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the cabinet shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the Revenue Cabinet under the gasoline excise tax law may be made public by the cabinet.

(4) Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Revenue Cabinet, or any other person.

(5) Statistics of crude oil as reported to the Revenue Cabinet under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Revenue Cabinet under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the cabinet by release to the ***Environmental and Public Protection Cabinet,*** Department ***for Natural Resources***~~[of Mines and Minerals]~~.

(6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the cabinet may make public or divulge only those portions of mine maps submitted by taxpayers to the cabinet pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine

maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

Section 15. KRS 137.132 is amended to read as follows:

(1) As used in this section, "recovered inactive well" means a well that has been inactive for a consecutive two (2) year period or a well that has been plugged and abandoned, as determined by the ***Environmental and Public Protection Cabinet, Division of Oil and Gas Conservation***[~~Department of Mines and Minerals~~], and that resumes producing crude petroleum oil.

(2) Every taxpayer engaged in the production of crude petroleum oil within this Commonwealth shall be allowed a credit against the tax imposed under KRS 137.120 equal to four and one-half percent (4.5%) of the market value of crude petroleum oil that is produced from a recovered inactive well.

Section 16. KRS 143A.033 is amended to read as follows:

(1) As used in this section, "recovered inactive well" means a well that has been inactive for a consecutive two (2) year period or a well that has been plugged and abandoned, as determined by the ***Environmental and Public Protection Cabinet, Division of Oil and Gas Conservation***[~~Department of Mines and Minerals~~], and that resumes producing natural gas.

(2) Every taxpayer engaged in severing or processing natural gas within this Commonwealth shall be allowed a credit against the tax imposed under KRS 143A.020 equal to four and one-half percent (4.5%) of the gross value of natural gas that is produced from a recovered inactive well.

Section 17. KRS 148.876 is amended to read as follows:

(1) The power of eminent domain may only be exercised to acquire land in fee within the boundaries of the trail, except that the power of eminent domain shall not be exercised to acquire any privately owned dwelling, areas designated for residential structures and their surrounding properties, or property owned or leased, including adjacent or contiguous tracts of land leased or owned or which may be acquired, for the purposes of operating an oil or gas well, surface or underground coal mine operation, or surface or underground mineral quarrying operation, if the person holds a state permit or license issued by the ***Environmental and Public Protection Cabinet, Division of Mine Permits or Office of Mine Safety and Licensing***[~~Department of Surface Mining Reclamation and Enforcement or the Department of Mines and Minerals~~].

(2) Within the boundaries of the trail, the department may acquire, on behalf of the Commonwealth, fee title or lesser interests in land. Acquisition of land may be by gift, by purchase with donated funds, by funds appropriated by the General Assembly, by the use of proceeds from the sale of bonds, by exchange, by assumption of property tax payments, or by other authorized means. Notwithstanding the provisions in KRS 350.085(3) and 353.610, in acquiring any interests the Commonwealth or its agencies shall waive the three hundred (300) foot restriction contained in KRS 350.085(3) and boundary restrictions for a well set forth in KRS 353.610.

Section 18. KRS 151.629 is amended to read as follows:

(1) There is established an Interagency Technical Advisory Committee on Groundwater to assist the KGS in the development, coordination, and implementation of a groundwater monitoring network for the Commonwealth. The committee shall consist of one (1) representative from each of the following agencies, to be appointed by that agency:

(a) Division of Conservation of the Department for Natural Resources;

(b) Division of Environmental Health and Community Safety of the Cabinet for Health Services;

(c) Division of Forestry of the Department for Natural Resources;

(d) Division of Environmental Services of the Department of Agriculture;

(e) Division of Waste Management of the Department for Environmental Protection;

(f) Division of Water of the Department for Environmental Protection;

(g) Department for Environmental Protection;

(h)[~~Department of Mines and Minerals of the Public Protection and Regulation Cabinet;~~

~~(i)~~] Department for Natural Resources;

(i)[~~(j) Department for Surface Mining Reclamation and Enforcement;~~

~~(k)~~] Kentucky Geological Survey;

(j)[~~(l)~~] University of Kentucky College of Agriculture; and

(k)[~~(m)~~] University of Kentucky Water Resources Research Institute.

(2) The committee shall have two (2) nonvoting legislative liaisons who shall be members of the General Assembly. One (1) liaison shall be a House member appointed by the Speaker of the House of Representatives and one (1) liaison shall be a Senate member appointed by the President of the Senate. The chair of the committee shall be the director of the University of Kentucky Water Resources Research Institute. The duties and responsibilities of the committee shall include:

(a) Developing a plan to coordinate agencies for the overall characterization of the state's groundwater, including occurrence, flow systems, water quantity, and water quality;

(b) Reviewing the data entry process to ensure that all data collected is placed into the Kentucky Groundwater Data Repository;

(c) Establishing a long-term groundwater monitoring plan for the Commonwealth;

(d) Making recommendations for prioritization of the state's groundwater research needs; and

(e) Annually reviewing and evaluating groundwater data collection and analysis.

(3) In addition to the members identified in subsection (1) or (2) of this section, the committee may have, as one (1) of its members, one (1) nonvoting representative from the United States Geological Survey, appointed by that agency.

Section 19. KRS 154.47-025 is amended to read as follows:

The board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board, including, but not limited to, the following:

(1) Developing, in conjunction with other agencies, workforce training plans for the secondary wood products industry as provided for in KRS 154.47-055;

(2) Reviewing and recommending to the Cabinet for Economic Development the approval of proposals to establish business networks for businesses and industries engaged in any value-added processing of raw wood products or the manufacturing of wood products as set forth in KRS 154.47-040, and cooperating with the Cabinet for Economic Development to promote the development of business networks among secondary wood products businesses and industries;

(3) Advising the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet[~~ and the Labor Cabinet~~] on regulatory matters which impact the economic competitiveness and development of the state's secondary wood products industry;

(4) Advising the ***Department of*** Labor[~~ Cabinet~~] regarding modifications to the state workers' compensation laws in an effort to make Kentucky's secondary wood products industry more competitive;

(5) Advising the Finance and Administration Cabinet regarding procurement of Kentucky-made secondary wood products by state agencies, including the procurement of these products by the Department of Parks as part of any proposed state parks renovation projects;

(6) Soliciting, borrowing, accepting, receiving, investing, and expending funds from any public or private source, including, but not limited to, general fund appropriations of the Commonwealth of Kentucky, grants or contributions of money, property, labor, or other things of value to be used to carry out the corporation's operations, functions, and responsibilities;

(7) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities;

(8) Establishing benchmarks for the purpose of evaluating workforce training and technology transfer programs applicable to the secondary wood products industry;

(9) Employing consultants and other persons as may be required in the judgment of the board to be essential to the board's operations, functions, and responsibilities; and

(10) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its statutory powers, duties, and responsibilities.

Section 20. KRS 177.977 is amended to read as follows:

(1) The Transportation Cabinet shall publish a directory, including supporting maps and other documents, designating the official coal road system in coal impact and coal producing counties which shall include all public highways, roads, bridges, and streets over which quantities of coal sufficient to significantly affect the condition and state of repair of such highways, roads, bridges, and streets have been transported in the immediately preceding year. The cabinet shall further publish the total county mileage of the official coal road system and the total ton-miles within each coal impact and coal producing county for said preceding year.

(2) Every person, producer or processor shipping or transporting coal over the public highways, roads, bridges, and streets, shall file with the Transportation Cabinet information at intervals as the cabinet shall designate by administrative regulation promulgated pursuant to KRS Chapter 13A, for the purpose of identifying those highways, roads, and streets comprising the coal road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton-miles within each coal impact and coal producing county. A copy of the information furnished to the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet pursuant to the provisions of KRS 350.0285 and a copy of the information furnished to the Department ***for Natural Resources***[~~of Mines and Minerals~~] pursuant to the provisions of KRS 351.070 and 352.420 shall be submitted to the Transportation Cabinet to satisfy the reporting requirements of this subsection and the transportation plan shall be annually updated to reflect in route changes.

Section 21. KRS 224.10-020 is amended to read as follows:

(1) There is established within the cabinet a Department for Natural Resources, a Department for Environmental Protection,[~~ and~~] a Department ***of Labor, and a Department of Public Protection***[~~for Surface Mining Reclamation and Enforcement~~]. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.

(2) There is established within the Department for Natural Resources a Division of Forestry, a Division of Conservation, a Division of Energy, an Office of Technical and Administrative Support, a Division of Mine Reclamation and Enforcement, a Division of Mine Permits, a Division of Abandoned Mine Lands, a Division of Oil and Gas Conservation, and an Office of Mine Safety and Licensing. There shall be established within the Office of Mine Safety and Licensing a Division of Safety Inspection and Licensing, a Division of Explosives and Blasting, a Division of Investigation, and a Division of Safety Analysis, Training, and Certification. Each division shall be headed by a director and each office shall be headed by an executive director. Directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050 and, as appropriate, Section 64 of this Act. Both directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(3) (a) There is established within the Department of Labor, an Office of Occupational Safety and Health, an Office of Labor-Management Relations and Mediation, an Office of Workplace Standards, and an Office of Workers' Claims. Each office shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(b) The following agencies are attached to the Department of Labor for administrative purposes only:

1. Kentucky Labor Management Advisory Council;

2. Kentucky Employees' Insurance Association;

3. State Labor Relations Board;

4. Workers' Compensation Funding Commission;

5. Workers' Compensation Advisory Council;

6. Occupational Safety and Health Standards Board;

7. Prevailing Wage Review Board;

8. Apprenticeship and Training Council;

9. Kentucky Occupational Safety and Health Review Commission;

10. Employers' Mutual Insurance Authority; and

11. Workers' Compensation Nominating Commission.

(4) (a) There is established within the Department of Public Protection, a Division of Administrative Services, an Office of Financial Institutions, an Office of Insurance, an Office of Housing, Buildings, and Construction, an Office of Charitable Gaming, and an Office of Alcoholic Beverage Control. Each division shall be headed by a division director and each office shall be headed by an executive director. Division directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. Division directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(b) The following agencies are attached to the Department of Public Protection for administrative purposes only:

1. Kentucky Public Service Commission;

2. Crime Victims Compensation Board;

3. Board of Claims;

4. Board of Tax Appeals;

5. Kentucky Athletic Commission; and

6. Kentucky Horse Racing Authority.

Section 22. KRS 224.10-040 is amended to read as follows:

(1) The secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create[~~ such~~] positions***, to retain positions in effect prior to his or her appointment as secretary,*** and to employ the necessary personnel in such positions to enable the secretary to perform the functions of the cabinet. The secretary shall designate a person to act as deputy for him in the exercise of his duties in his absence.

(2) All appointments to positions not in the classified service shall be made pursuant to KRS 12.050[~~ and such appointees shall be major assistants to the secretary and shall assist in the development of policy~~].

Section 23. KRS 224.10-050 is amended to read as follows:

The secretary shall establish the internal organization of the cabinet not established ***by statute or by executive order of the Governor, as ratified by the General Assembly,***[~~ in KRS 224.10-040~~] and shall divide the cabinet into such offices or divisions as the secretary may deem necessary to perform the functions, powers and duties of the cabinet, subject to the provisions of KRS Chapter 12. ***The secretary may retain or revise any offices or divisions in place prior to his or her appointment as secretary if***

retaining or revising the offices or divisions is not contrary to or in conflict with the organization of the cabinet established by statute or by executive order of the Governor, as ratified by the General Assembly.

Section 24. KRS 224.60-115 is amended to read as follows:

As used in KRS 224.60-120 to 224.60-150, unless the context otherwise requires:

(1) "Bodily injury and property damage" means only those actual economic losses to an individual or the individual's property resulting from bodily injuries and damages to property caused by a release into the environment from a petroleum storage tank. In this context, property damage includes damage to natural resources;

(2) "Cabinet" means the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet;

(3) "Claim" means any demand in writing for a certain sum;

(4) "Corrective action" means those actions necessary to protect human health and the environment in the event of a release from a petroleum storage tank. Corrective action includes initial responses taken pursuant to KRS 224.60-135, remedial actions to clean up contaminated groundwater, surface waters, or soil, actions to address residual effects after initial corrective action is taken, and actions taken to restore or replace potable water supplies. Corrective action also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred;

(5) "Dealer" means a person required to be licensed as a gasoline or special fuels dealer as defined in KRS 138.210(2);

(6) ***"Division" means the Division of Waste Management;***

(7) "Facility" means, with respect to any owner or operator, all petroleum storage tanks which are owned or operated by an owner or operator and are located on a single parcel of property or on any contiguous or adjacent property;

(8)[~~(7)~~] "Federal regulations" means regulations for underground petroleum storage tanks promulgated by the United States Environmental Protection Agency pursuant to Subtitle I of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act;

(9)[~~(8)~~] "Free product" means a regulated substance that is present as a non-aqueous phase liquid;

(10)[~~(9)~~] "Fund" means the petroleum storage tank environmental assurance fund and its subaccounts, the financial responsibility account and the petroleum storage tank account established pursuant to KRS 224.60-140;

(11)[~~(10)~~] "Gasoline" means gasoline as defined in KRS 138.210(4);

(12)[~~(11)~~] "Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, that is typically used in the operation of a motor engine, jet fuel, and any petroleum or petroleum-based substance typically used in the operation of a motor vehicle, including used motor vehicle lubricants and oils;

(13)[~~(12)~~] "Occurrence" means a release, or releases, of an accidental nature, requiring corrective action, from a petroleum storage tank or tanks located at the same facility, due to continuous or repeated exposure to conditions. An additional release or releases at the same facility in which the area requiring remedial action is separate from a previous remediation area or areas shall be considered a separate occurrence;

[~~(13) "Office" means the Office of Petroleum Storage Tank Environmental Assurance Fund;~~]

(14) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, the state, a municipality, commission, or political subdivision of the state. The term includes a consortium, a joint venture, the United States government, or a commercial entity;

(15) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute. The term includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating oil, special fuels, lubricants, and used oil;

(16) "Petroleum storage tank" means an underground storage tank, as defined by KRS 224.60-100, which contains petroleum or petroleum products but, for the purpose of participation or eligibility for the fund, shall only include tanks containing motor fuels and shall not include petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel or tanks used exclusively for storage of fuel used for the purposes of powering locomotives or tanks owned by a federal agency or the United States government;

(17) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(18) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(19) "Received" means the same as defined in KRS 138.210(5);

(20) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law;

(21) "Special fuels" means special fuels as defined in KRS 138.210(4); and

(22) "Third party" means a person other than the owner or operator of a facility, or the agents or employees of the owner or operator, who sustains bodily injury or property damage as a result of a release from that facility.

Section 25. KRS 224.60-120 is amended to read as follows:

(1) Each petroleum storage tank owner or operator shall establish and maintain evidence of financial responsibility, as provided for in this section, for taking corrective action and for compensating third parties for bodily injury and property damage.

(a) For petroleum storage tank owners or operators of eleven (11) or more tanks, the level of financial responsibility to be established and maintained shall be twelve thousand five hundred dollars ($12,500) per occurrence for taking corrective action and twelve thousand five hundred dollars ($12,500) per occurrence for compensating third parties for bodily injury and property damage.

(b) For petroleum storage tank owners or operators of six (6) to ten (10) tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be two thousand five hundred dollars ($2,500) per occurrence for taking corrective action and two thousand five hundred dollars ($2,500) per occurrence for compensating third parties for bodily injury and property damage.

(c) For petroleum storage tank owners or operators of five (5) or less tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be five hundred dollars ($500) per occurrence for taking corrective action and for compensating third parties for bodily injury and property damage.

(2) Evidence of financial responsibility may be established by any combination of the following:

(a) Commercial or private insurance, including risk retention groups;

(b) Qualification as a self-insurer;

(c) A guarantee, surety bond, or letter of credit; or

(d) Any other reasonable and economically practicable means in a form acceptable to the office.

(3) To qualify as a self-insurer, the petroleum storage tank owner or operator shall demonstrate a net worth in excess of the amounts specified in subsection (1) of this section. "Net worth" shall mean the monetary value of assets that remain after deducting liabilities. "Assets" shall mean all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(4) The total liability of any guarantor under KRS 224.60-105 to 224.60-160 is limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the petroleum storage tank owner or operator pursuant to this section. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to a petroleum storage tank owner or operator, including, but not limited to, the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. "Guarantor" shall mean any person, other than the petroleum storage tank owner or operator, who provides evidence of financial responsibility for a petroleum storage tank owner or operator pursuant to this section.

(5) It is the intent of the General Assembly that the fund established pursuant to KRS 224.60-140, combined with the financial responsibility required by this section, may be used by petroleum storage tank owners or operators to demonstrate their compliance with any financial responsibility requirements promulgated under federal regulations.

(6) The ***Department for Environmental Protection, Division of Waste Management,***[~~office~~] shall promulgate administrative regulations to implement this section. In promulgating administrative regulations, the ***division***[~~office~~] shall not restrain or limit the use of any of the means of establishing financial responsibility specified in this section. The administrative regulations may allow a twenty-five percent (25%) reduction in the level of financial responsibility set in subsection (1) of this section for the timely completion of corrective action.

Section 26. KRS 224.60-130 is amended to read as follows:

(1)[~~There is created within the Public Protection and Regulation Cabinet, Office of the Secretary, the Office of Petroleum Storage Tank Environmental Assurance Fund.~~

~~(2)~~] The ***Environmental and Public Protection Cabinet, Department for Environmental Protection, Division of Waste Management,***[~~Office of Petroleum Storage Tank Environmental Assurance Fund~~] shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the ***division***[~~office~~] may distinguish between types, classes, and ages of petroleum storage tanks. The ***division***[~~office~~] may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the ***division***[~~office~~] for reimbursement from the fund for the performance of corrective action. At a minimum, the ***division***[~~office~~] shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the ***division***[~~office~~] shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The ***division***[~~office~~] may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the ***division***[~~office~~] on or before January 15, 2008. To insure cost effectiveness, the ***division***[~~office~~] shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the ***division***[~~office~~] may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the ***division***[~~office~~];

(d) Establish a small operator assistance account within the fund which may be used by the ***division***[~~office~~] to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2013. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2004, the ***division***[~~office~~] shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The ***division***[~~office~~] shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the ***division***[~~office~~] shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the ***division***[~~office~~] regarding the payment of claims from the fund in accordance with KRS Chapter 13B;

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the ***division***[~~office~~], for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account. The ***division***[~~office~~] shall, by administrative regulation, set the entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator. The expenditures shall be paid from the appropriate account;

(j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the ***division***[~~office~~] may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;

(k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

(l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The ***division***[~~office~~] may collect soil or water samples or require storage tank owners or operators to split samples with the office for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the ***division***[~~office~~] to collect or split samples shall make the facility ineligible for fund participation;

(m) Have ***inspectors***[~~assurance fund auditors~~] on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the ***division***[~~office~~] schedule an ***inspector***[~~assurance fund auditor~~] to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an ***inspector***[~~auditor~~] fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the ***division***[~~assurance fund~~] no later than ten (10) days prior to the proposed date that an ***inspector***[~~auditor~~] is not available on the proposed date, in which event a representative of the ***division***[~~assurance fund~~] shall contact the operator and schedule a new date. If no ***inspector***[~~auditor~~] is present at the rescheduled date, the removal may then proceed without penalty; and

(n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter.

The funding and operations of the small operator assistance account and the small operator's tank removal account shall end on July 15, 2008.

(2)[~~(3)~~] The ***division***[~~office~~] may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(3)[~~(4)~~] The ***division***[~~office~~] may sue and be sued in its own name.

(4)[~~(5)~~] The ***division***[~~office~~] may transfer funds from the petroleum storage tank account to the small operator tank removal account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The ***division***[~~office~~] may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection ***(1)***[~~(2)~~](c) of this section.

Section 27. KRS 224.60-140 is amended to read as follows:

(1) There is hereby created the petroleum storage tank environmental assurance fund. The fund shall consist of a financial responsibility account and a petroleum storage tank account. Each account shall be maintained as a separate and distinct interest-bearing account. Interest credited to an account shall be retained in that account. All of the following amounts shall be deposited in the fund:

(a) Four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the financial responsibility account;

(b) One cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the petroleum storage tank account;

(c) Money appropriated by the General Assembly for deposit in each account;

(d) Any money recovered by the fund pursuant to this section shall be deposited in the appropriate account; and

(e) Any money collected in the form of penalties levied pursuant to KRS 224.60-155 shall be deposited to the appropriate account.

(2) Money in the fund, financial responsibility account and the petroleum storage tank account shall be used by the ***division***[~~office~~] for the following purposes:

(a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action required by the cabinet to be undertaken as the result of a release into the environment from a petroleum storage tank. Reimbursement shall be limited to only those costs, expenses, and other obligations incurred to comply with corrective action requirements established in law or administrative regulation by the cabinet. Additional costs related to compliance with a local program operating under KRS 224.60-105(4) shall be neither reimbursable by the fund nor imposed on the owner or operator. Reimbursement shall not include the costs related to the removal, or actions incidental to the removal, of a tank system except as authorized under KRS 224.60-130*(1)*[~~(2)~~](j);

(b) For payment of or reimbursement for third-party claims for bodily injury and property damage, related to a facility eligible for participation in the financial responsibility account, which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;

(c) To pay the reasonable, prorated costs incurred by the ***division***[~~office~~] in administering each account; and

(d) The cost to operate the small operators' assistance account pursuant to KRS 224.60-130*(1)*[~~(2)~~](d), the small operators' tank removal account pursuant to KRS 224.60-130*(1)*[~~(2)~~](j), to perform or contract for the performance of financial audits conducted under KRS 224.60-130*(1)*[~~(2)~~](k), and to employ sufficient ***inspectors***[~~assurance fund auditors~~] to carry out the provisions of KRS 224.60-130 and to set forth their duties. These costs shall be prorated to each account.

(3) The use of the fund shall not exceed one million dollars ($1,000,000) per occurrence for corrective action and one million dollars ($1,000,000) per occurrence for compensating third parties for bodily injury and property damage.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the ***division***[~~office~~] for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the ***division***[~~office~~].

(7) The ***division***[~~office~~] or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time. The ***division***[~~office~~] shall by phone or facsimile transmission immediately notify the claim applicant and its consultant, if applicable, when the claim is determined to be deficient. The notification shall provide sufficient information to allow the applicant and its consultant, if applicable, to begin to correct the deficiency. The ***division***[~~office~~] shall then notify the applicant and its consultant, if applicable, by certified mail of the deficiency. The notice shall indicate how many days remain in the ninety (90) day review period from the time of mailing. The review period shall be tolled pending submittal of information responding to the deficiency, but not to exceed thirty (30) days. When the ***division***[~~office~~] receives information that corrects the deficiency, or at the end of the thirty (30) day period, the ***division***[~~office~~] shall complete the review of the claim within the time remaining in the ninety (90) day review period. Nothing in this section shall be construed as preventing the fund from making partial reimbursement as appropriate.

(8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the ***division***[~~office~~] from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the ***division's***[~~office's~~] cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsections (8) and (19) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the ***division***[~~office~~] pursuant to this section shall be deposited in the appropriate account.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13) (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The appropriate account shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14) (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.

(17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks used exclusively for storage of fuel used for the purposes of powering locomotives.

(18) (a) Any person filing a claim for reimbursement from the *division*[~~office~~] shall, prior to filing the claim for reimbursement, ensure full payment of the claims of all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor or materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement.

(b) A vendor or subcontractor may waive, in writing, his right to receive full payment before the person files the claim for reimbursement. Any vendor or subcontractor who waives, in writing, his right to full payment shall also waive, in writing, his right to take legal recourse against the *division*[~~office~~] and the underground storage tank facility owner or operator for nonpayment from a prime contractor for work performed or materials supplied to the prime contractor during corrective action at an underground storage tank facility. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall acknowledge in the written waiver that his, his heirs', successors', and assigns' sole recourse for the nonpayment of work performed or materials supplied to a prime contractor during corrective action at an underground storage tank facility is to proceed against the prime contractor for whom he performed the work or supplied materials. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall release and discharge any liens filed as a result of work performed or materials provided at the underground storage tank facility. Subcontractor and vendor waivers must be made on standard forms furnished by the *division*[~~office~~]. Their signatures must be notarized.

(c) Unless the provisions of paragraph (b) of this subsection apply, any person filing a claim for reimbursement from the *division*[~~office~~] shall certify, by affidavit, on standard forms furnished by the *division*[~~office~~], that all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor and materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement, have been paid in full as of the date of submission of the claim for reimbursement. A single affidavit may be made for each claim for reimbursement, provided, however, that the representations made in the affidavit shall be applied to each vendor or subcontractor individually, and, where false, shall be treated, as to each vendor or subcontractor, as a separate violation for the purpose of applying any criminal statute.

(d) Any person with responsibility for administering the *division*[~~office~~] who believes, or has information, that an affidavit submitted pursuant to this subsection contains false or misleading information, or any person with responsibility for administering the *division*[~~office~~] who believes or has information that an application for financial assistance or a claim for reimbursement contains false or misleading information, shall provide that information to the Commonwealth's attorney whose jurisdiction includes the county where the majority of the subject underground storage tank facility is located. That person may additionally provide the information to any other interested prosecutor with jurisdiction to prosecute crimes pertaining to an application for financial assistance or the claim for reimbursement.

(19) Any person who knowingly makes a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be responsible for and shall not be reimbursed for any amounts incurred based upon the false statement, representation, or certification. Any costs incurred and paid from the fund which are based on a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be recovered by the fund administrators from the person who asserted the false statement, representation, or certification.

Section 28. KRS 303.100 is amended to read as follows:

A burial association desiring to do business in this state shall file with the *executive director of the Office of Insurance*[~~commissioner~~] a power of attorney as is required of insurance companies, designating the *executive director*[~~commissioner~~] as the proper person upon whom process may be served.

Section 29. KRS 304.2-010 is amended to read as follows:

There is continued ***within the Environmental and Public Protection Cabinet, Department of Public Protection, an Office***[~~a department of state government~~] known as the ***Office***[~~Department~~] of Insurance.

Section 30. KRS 304.2-020 is amended to read as follows:

(1) The ***executive director***[~~insurance commissioner~~] is the head of the ***Office***[~~Department~~] of Insurance.

(2) The ***executive director shall be appointed by the secretary of the Environmental and Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050***[~~commissioner shall be appointed by the Governor with the consent of the Senate, for a term not to exceed four (4) years on the basis of his merit and fitness to perform the duties of the office as provided in KRS 12.040. If the Senate is not in session when a term expires or a vacancy occurs, the Governor shall make the appointment to take effect at once, subject to the approval of the Senate when convened~~].

(3) The following divisions are established within the Office of Insurance and shall be headed by directors appointed by the secretary of the Environmental and Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050:

- ***(a) Property and Casualty Division;***
- ***(b) Division of Life Insurance;***
- ***(c) Division of Financial Standards and Examination;***
- ***(d) Division of State Risk and Insurance Services;***
- ***(e) Division of Agent Licensing;***
- ***(f) Division of Insurance Fraud Investigation;***
- ***(g) Division of Consumer Protection and Education;***
- ***(h) Division of Health Insurance Policy and Managed Care; and***
- ***(i) Division of Kentucky Access.***

Section 31. KRS 304.2-100 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] shall personally supervise the operations of the ***office***[~~department~~].

(2) The ***executive director***[~~commissioner~~] shall examine and inquire into violations of this code, shall enforce the provisions of this code with impartiality and shall execute the duties imposed upon him by this code.

(3) The ***executive director***[~~commissioner~~] shall have the powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code.

(4) The ***executive director***[~~commissioner~~] may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper upon reasonable and probable cause to determine whether any person has violated any provisions of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.

(5) The ***executive director***[~~commissioner~~] may establish and maintain such branch offices in this state as may be reasonably required for the efficient administration of this code.

(6) The ***executive director***[~~commissioner~~] shall have such additional powers and duties as may be provided by other laws of this state.

Section 32. KRS 336.010 is amended to read as follows:

As used in ***this chapter***[~~KRS 336.010 to 336.160~~], unless the context requires otherwise:

(1) "Commissioner" means commissioner of the Department of ***Labor***[~~Workplace Standards~~] under the direction and supervision of the secretary of the ***Environmental and Public Protection***[~~Labor~~] Cabinet;[~~ and~~]

(2) "Department" means Department of ***Labor; and***

(3) "Secretary" means the secretary of the Environmental and Public Protection Cabinet[~~Workplace Standards~~].

Section 33. KRS 336.015 is amended to read as follows:

(1) The ***commissioner***[~~secretary~~] of ***the Department of*** labor shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the[~~ commissioner and Department of~~] Labor ***Cabinet***.

(2) The ***Department of*** Labor[~~ Cabinet~~] shall consist of the ***Office of Occupational Safety and Health, the Office of Labor Management Relations and Mediation, the Office of Workplace Standards, and the Office of Workers' Claims. Each of the offices shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050 and, as appropriate, KRS 342.228***[~~Offices of the Secretary, General Counsel, Administrative Services, Information Technology, Labor Management Relations and Mediation; the Kentucky Workers' Compensation Funding Commission; the Workers' Compensation Board; the Occupational Safety and Health Review~~

~~Commission; and the Departments of Workplace Standards, and Workers' Claims. The commissioner of the Department of Workplace Standards and the Department of Workers' Claims within the Labor Cabinet shall be under the direction and control of the secretary of the Labor Cabinet~~].

(3) The following agencies are attached to the department for administrative purposes only:

(a) Kentucky Labor Management Advisory Council;

(b) Kentucky Employees' Insurance Association;

(c) State Labor Relations Board;

(d) Workers' Compensation Funding Commission;

(e) Workers' Compensation Advisory Council;

(f) Occupational Safety and Health Standards Board;

(g) Prevailing Wage Review Board;

(h) Apprenticeship and Training Council;

(i) Kentucky Occupational Safety and Health Review Commission;

(j) Employers' Mutual Insurance Authority; and

(k) Workers' Compensation Nominating Commission.

Section 34. KRS 336.020 is amended to read as follows:

(1) The *Office*[~~Department~~] of Workplace Standards shall be headed by *an executive director*[~~a commissioner~~] and shall be divided for administrative purposes into the *Division*[~~Divisions~~]of Employment Standards, Apprenticeship and Training; *and the Division of* Workers' Compensation Funds[~~; Occupational Safety and Health Compliance; and Education and Training for Occupational Safety and Health~~].

(2) The *office*[~~Department~~] of Workers' Claims shall be administered by *an executive director*[~~a commissioner~~] and shall be divided for administrative purposes into the Divisions of *General Counsel,* Claims Processing[~~ and Appeals~~], Information and Research, Security and Compliance, *and Ombudsman and Special Services*[~~Administrative Law Judges, and Insurance~~].

(3) The Office of Occupational Safety and Health shall be administered by an executive director and shall be divided for administrative purposes into the Division of Compliance and the Division of Education and Training.

Section 35. KRS 336.030 is amended to read as follows:

The commissioner, with the approval of the *secretary of the Environmental and Public Protection Cabinet and the* Governor, shall appoint necessary deputies, attorneys, statisticians, inspectors and other employees and fix their salaries according to law. These employees shall receive their actual necessary expenses.

Section 36. KRS 336.164 is amended to read as follows:

(1) The council shall function as an advisory agent of state government and provide leadership and assistance for labor and management in this state, and shall serve to effect improved labor-management relations within the state, and to thereby attract and encourage new and existing industry in this state.

(2) The council shall not infringe upon or assume the responsibilities, duties or functions of the *Department of* Labor[~~ Cabinet~~] or Cabinet for Economic Development. The council may make recommendations to the Governor and the Legislature on matters relating to labor-management problems in this state and any other matter it deems necessary.

(3) Meetings of the council may be held at any location in this state; however the principal office of the council will be located in Frankfort, Kentucky.

(4) The *commissioner of the Department*[~~secretary~~] of labor shall supply necessary staff and supplies to the council as well as funds for reimbursing each member for reasonable and necessary expenses incurred as a result of attending council meetings, and he shall act as the executive secretary of the council. The executive director of the Office of Labor-Management Relations and Mediation shall be responsible for the coordination of such staff and supplies.

Section 37. KRS 338.015 is amended to read as follows:

As used in this chapter:

(1) "Employer" shall mean any entity for whom a person is employed except those employers excluded in KRS 338.021.

(2) "Employee" shall mean any person employed except those employees excluded in KRS 338.021.

(3) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(4) "Occupational safety and health hazard" means any practice or condition in a place of employment which may be deemed detrimental to the safety and health of employees.

(5) "Occupational injury or illness" means any abnormal condition or disorder of an employee caused by exposure to factors

associated with his employment.

(6) "Board" means the Kentucky Occupational Safety and Health Standards Board established under this chapter.

(7) "***Executive director***[~~Commissioner~~]" means the ***executive director***[~~commissioner~~] of the ***Office of Occupational Safety and Health***[~~Kentucky Department of Workplace Standards~~] under the direction and supervision of the ***commissioner of the Department of Labor***[~~secretary of the Labor Cabinet~~].

(8) "Review commission" means the Kentucky Occupational Safety and Health Review Commission established under this chapter.

(9) The term "national consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(10) The term "established federal standard" means any operative occupational safety and health standard established by any agency of the United States government.

(11) "Office" means the Office of Occupational Safety and Health.

(12) "Commissioner" means the commissioner of the Department of Labor.

Section 38. KRS 338.161 is amended to read as follows:

(1) The ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] shall develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. Each employer shall make, keep and preserve, and make available to the ***executive director***[~~commissioner~~] and the Secretary of the United States Department of Labor or the Secretary of the United States Department of Health and Human Resources, such records regarding his activities relating to this chapter as may be prescribed by regulation.

(2) The ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protection and obligations under this chapter.

Section 39. KRS 338.181 is amended to read as follows:

The ***Office of Occupational Safety and Health***[~~Kentucky Department of Workplace Standards~~] is empowered to administer the provisions of this chapter to employers, employees, and places of employment under the jurisdiction of the United States government pursuant to any agreement between the Commonwealth and the United States government. Pursuant to such agreement, the ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] is empowered to make employer reports and data available to the United States government.

Section 40. KRS 339.210 is amended to read as follows:

As used in KRS 339.220 to 339.450 "gainful occupation" does not include employment in farm work or in domestic service in a private home, nor occasional employment by a householder in connection with the household and not in connection with the householder's business or occupation, such as grass cutting or carrying ashes or similar casual domestic tasks, nor the delivery of newspapers on regularly scheduled routes, nor to employment as an actor or performer in motion pictures or theatrical productions, or in radio or television productions, nor to employment of minors by their own parents or persons standing in the place of a parent in occupations other than manufacturing, mining, or those found by the ***executive director of the Office of Workplace Standards***[~~commissioner of labor~~] to be particularly hazardous.

Section 41. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "***Office***[~~Department~~]" means the ***Office***[~~Department~~] of Workers' Claims in the ***Department of*** Labor[~~ Cabinet~~].

(9) "***Executive director***[~~Commissioner~~]" means the ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal

shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the ***Office***~~[Kentucky Department]~~ of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the ***executive director***[~~commissioner~~] using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The ***executive director***[~~commissioner~~] shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the ***executive director***[~~commissioner~~]. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The ***executive director***[~~commissioner~~] shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the ***office***[~~department~~] and from the records of the Department for Employment Services, Cabinet for Workforce Development. The ***executive director***[~~commissioner~~] shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The ***executive director***[~~commissioner~~] shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the ***office***[~~department~~] and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the ***executive director***[~~commissioner~~], which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the ***executive director***[~~commissioner~~] pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 42. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter, an owner or owners of a business, including qualified partners of a partnership owning a business, or qualified members of a limited liability company, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee if the owner, owners, qualified partners, or qualified members of a limited liability company elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of the owners, partners, or members of a limited liability company to provide coverage for their employees, nonqualified partners, or nonqualified members, if any, required under this chapter.

(2) When an owner, owners, qualified partners, or qualified members of a limited liability company have elected to be included as employees, this inclusion shall be accomplished by the issuance of an appropriate endorsement to a workers' compensation insurance policy.

(3) For the purpose of this section, "qualified partner" or "qualified member or members" means, respectively, a partner who has entered into a meaningful partnership agreement or a member who has entered into meaningful articles of organization or a meaningful operating agreement of a limited liability company, which document shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership or limited liability company and that the partner or member has made some contribution to the partnership or limited liability company which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership or limited liability company.

(4) For the purposes of this section, "nonqualified partner" or "nonqualified member" means, respectively, a person who has entered into a partnership agreement, or articles of organization or operating agreement of a limited liability company, which document shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership or limited liability company; that the person will not participate in the decision-making of the partnership or limited liability company and will not participate in the profits and losses of the business engaged in by the partnership or limited liability company.

(5) Every partnership filing a partnership agreement and every limited liability company filing articles of organization or an operating agreement for the purpose of exemption pursuant to the provisions of KRS 342.340 shall, on or before April 15 of each year, file with the ***executive director***[~~commissioner~~] the employer identification number assigned to the partnership or limited liability company by the Internal Revenue Service. On or before April 15 of each year, each partnership and each limited liability company having a partnership agreement, operating agreement, or articles of organization on file with the ***executive director***[~~commissioner~~] shall file a copy of the tax return of the partnership or limited liability company with the ***executive director***[~~commissioner~~]. Failure to comply with the provisions of this subsection shall be prima facie evidence that the partnership agreement or limited liability company articles of organization filed with the ***executive director***[~~commissioner~~] is composed, respectively, of "nonqualified partners" or "nonqualified members", respectively, as defined in this section, and the ***executive director***[~~commissioner~~] shall promptly notify interested government agencies of the failure of the filed partnership agreement or limited liability company articles of organization or operating agreement to indicate compliance with KRS 342.340. With particular reference to employers engaged in coal mining, the ***executive director***[~~commissioner~~] shall promptly report the failure to comply with the provisions of this subsection to the

Environmental and Public Protection Cabinet, Department of Natural Resources, Division of Mine Safety and Licensing,[~~Department of Mines and Minerals~~] so that appropriate action may be undertaken pursuant to KRS 351.175.

(6) For purposes of this section, a "limited liability company" means an entity defined in KRS 275.015 and organized under the provisions of KRS Chapter 275.

Section 43. KRS 349.010 is amended to read as follows:

As used in this chapter:

(1) "Abandoned" when used in connection with a well or hole means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of coalbed methane or the injection or disposal of fluid therein;

(2) "Coal interest holder" means every record coal owner, record coal lessee, mine licensee as defined in KRS 352.010(1)(r) and mine permittee as defined in KRS 350.010(21) whose coalbed is penetrated, or proposed to be penetrated, by a coalbed methane well;

(3) "Coalbed" or "coal seam" means a seam of coal, whether workable or unworkable;

(4) "Coalbed methane" means gas produced from a reservoir found in a coalbed, a mined-out area, or gob;

(5) "Coalbed methane well" means any well drilled, deepened, converted, or reopened for the purpose of capturing coalbed methane for sale or use. Any well initially used for a coal mining-related purpose, such as a vent well, but which is subsequently used for the purpose of recovering coalbed methane for sale or use, shall then be deemed to be a coalbed methane well and shall comply with the provisions of this chapter at the time that the well is converted or used for the purpose of recovering coalbed methane for sale or use;

(6) "Commissioner" means the commissioner of the Department ***for***[~~of~~] Natural Resources;

(7) "Correlative rights" means the reasonable opportunity of each person entitled to recover, without waste, the coalbed methane in and under his or her tract or tracts, or the equivalent thereof;

(8) "Department" means the Department ***for***[~~of~~] Natural Resources;

(9) "Director" means the director of ***the Division of*** Oil and Gas Conservation as established in KRS 353.530;

(10) "Drilling unit" means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable coalbed methane in the area. Where the department has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;

(11) ***"Division" means the Division of Mine Permits in the Department for Natural Resources***[~~"DSMRE" means the Department for Surface Mining Reclamation and Enforcement as established in KRS 350.035~~];

(12) "Field rules" means rules established by orders of the review board relating to the drilling, completion, production of, and specifications for coalbed methane wells in a particular geographic area as defined by an order;

(13) "Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coalbed;

(14) "Gob well" means a well drilled or a vent hole converted to a well pursuant to this chapter which produces or is capable of producing coalbed methane for sale or use, from a de-stressed zone associated with any full seam extraction of coal that extends above or below a mined-out coalbed;

(15) "Horizontally drill" or "horizontal drilling" means the intentional act of drilling a borehole, shaft, or hole, which deviates from vertical for the purpose of penetrating a coal seam to produce coalbed methane;

(16) "Mine licensee" means the mine licensee as defined in KRS 352.010(1)(r);

(17) "Mine permittee" means the permittee as defined in KRS 350.010(21);

(18) "Nonparticipating working interest owner" means a coalbed methane owner or lessee of a tract included in a drilling unit who elects to share in the operation of the coalbed methane well on a carried basis by agreeing to have his or her proportionate share of the costs allocable to his or her interest charged against his or her share of production from the coalbed methane well;

(19) "Nonparticipating operator" means a nonparticipating working interest owner who is also the operator of the coalbed methane well;

(20) "Operator" means any owner of the right to drill, develop, operate, and produce coalbed methane from a pool and to appropriate the coalbed methane produced therefrom, either for himself or herself, or for himself, herself, and others; in the event there is no coalbed methane lease in existence with respect to the tract in question, the owner of the coalbed methane rights therein shall be considered as an "operator" to the extent of seven-eighths (7/8) of the coalbed methane in that portion of the pool underlying the tract owned by that owner, and as a "royalty owner" as to one-eighth (1/8) interest in that coalbed methane;

(21) "Other interested coalbed methane parties" means all working interest owners other than the operator, all royalty and overriding royalty interest owners or holders, and any other party who owns or holds a right or interest in a drilling unit,

coalbed methane well site for which a drilling permit has been issued or is pending, and all associated equipment, facilities, infrastructure, and improvements;

(22) "Participating working interest owner" means a coalbed methane owner or lessee who elects to bear a share of the risks and costs of drilling, completing, equipping, operating, plugging, and abandoning a coalbed methane well equal to the proportion which the acreage in the drilling unit he or she owns or holds under lease bears to the total acreage of the drilling unit;

(23) "Participating operator" means a participating working interest owner who is also the operator of the coalbed methane well;

(24) "Person" means any person, corporation, association, partnership, limited liability company, receiver, governmental agency subject to this chapter, trustee, so-called common law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(25) "Plat" means a map, drawing, or print showing the location of a well;

(26) "Review board" means the Coalbed Methane Well Review Board;

(27) "Royalty owner" means any owner of coalbed methane in place, or coalbed methane rights, to the extent that the owner is not an operator as defined in subsection (20) of this section;

(28) "Stimulate" means any action taken to increase the flow of coalbed methane, or the inherent productivity of a coalbed methane well, including but not limited to fracturing, shooting, acidizing, or waterflooding, but excluding cleaning out, bailing, or workover operations;

(29) "Surface owner" means the person in whose name the surface of the land is assessed for purposes of taxes imposed according to the property valuation administrator;

(30) "Unit" means any tract or tracts which the department has determined are underlaid by a pool or pools of coalbed methane and are not drilling units as defined in subsection (10) of this section;

(31) "Unitization" means the act of combining separately owned tracts or separate interests therein into a unit constituting all or some portion of a coalbed that produces or is capable of producing coalbed methane and the joint operation of that unit;

(32) "Unit operator" means the party designated in a pooling order to develop a unit by the drilling of one (1) or more coalbed methane wells;

(33) "Vent hole" means a borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened, which is used for the purpose of releasing or venting coalbed methane to the atmosphere and not for the purpose of capturing or producing coalbed methane for sale or use;

(34) "Venting" means the act of releasing coalbed methane to the atmosphere;

(35) "Well" means any borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened for the purpose of capturing or producing coalbed methane for sale or use; and

(36) "Workable coalbed" means:

(a) Any coalbed twenty-four (24) inches or more in thickness;

(b) Any coalbed actually being operated commercially;

(c) Any coalbed that the department decides can be operated commercially, and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

(d) Any coalbed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through or into it.

Section 44. KRS 349.015 is amended to read as follows:

(1) Before a permit may be issued by the department to drill a coalbed methane well on any tract known to be underlaid with coal-bearing strata, the well operator shall provide to the department a plat prepared by a licensed, professional land surveyor and a licensed, professional engineer showing:

(a) The county in which the coalbed methane well drill site is located;

(b) The name of the surface owner of the drill site tract, the acreage of the drill site tract, the names of the surface owners of adjacent tracts, the names of all coal interest holders from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located, and the names of all oil and gas owners from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located;

(c) The proposed or actual location of the coalbed methane well determined by bearing and distance, relative to two (2) permanent points or monuments that appear on the applicable United States Geological Survey seven and one-half (7-1/2) minute topographic quadrangle map;

(d) The location of any other existing or permitted coalbed methane well or any oil or gas well located within one thousand five hundred (1,500) feet of the well;

(e) The outside boundary of the mineral tract from which the coalbed methane is to be produced if within seven hundred fifty (750) feet of the well; and

(f) The number to be given the coalbed methane well, the earliest date for commencement of drilling, the earliest date for commencement of any stimulation of the coalbed methane well, and if horizontal drilling of a coalbed methane well is proposed, the vertical and horizontal alignment and extent of the coalbed methane well.

(2) If the location of any coalbed methane well proposed to be drilled, deepened, or reopened is known to be underlaid by a coal bearing stratum which is not within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the ***division***[~~DSMRE~~], simultaneously with the filing of an application for a permit, the applicant shall send, by registered or certified mail, a copy of the required plat to the record coal owner or owners and record coal lessee or lessees from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located.

(3) If the coal bearing stratum is within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the ***division***[~~DSMRE~~], a copy of the required plat shall also be sent by the applicant, by registered or certified mail, to each mine licensee and mine permittee operating any stratum as designated on the current license issued by the department and at the address stated thereon.

(4) A copy of the required plat shall also be sent, by registered or certified mail, simultaneously with the filing of an application for a permit, to the surface owner of the drill site tract and surface owners of adjoining tracts.

(5) If the address of any record owner is unknown to the applicant and cannot upon diligent inquiry within the county be ascertained, or if there are more than five (5) record owners, then the applicant shall file with the department an affidavit that either condition exists, and the department may prescribe some different method of notifying the record owner in lieu of sending a copy of the plat and notice of application as required by this section.

(6) The plat shall be filed and become a permanent record, subject to inspection at any time by any interested person. Any executive officer, process agent, or chief engineer of the mine licensee or mine permittee may be considered a mine licensee or mine permittee for the purposes of mailing the required copy of the plat.

(7) If a coalbed methane well is proposed to be drilled, deepened, converted, or reopened by an applicant who is not the owner or lessee of all of the oil and gas interests, the applicant shall, simultaneously with the filing of the application for a permit, send by registered or certified mail a copy of the required plat to the record oil and gas lessees of, to the record oil and gas lessors of, and to the operator of all oil and gas wells producing from, all formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the well is proposed to be located.

(8) The operator shall promptly upon completion of either a vertically drilled coalbed methane well located ten (10) feet or more from the location reflected on the plat required with the permit application or a horizontally drilled coalbed methane well file with the department an as-drilled plat prepared by a licensed professional land surveyor and a licensed professional engineer reflecting the actual coalbed methane well location. If the operator has completed a horizontally drilled coalbed methane well, the as-drilled plat shall show its alignment and extent. The plat shall become a permanent record subject to inspection at any time by any interested persons.

(9) Each plat, or exhibit attached thereto, shall have the following information on a form supplied by the department:

(a) Notice of the application for a coalbed methane well and the address where a copy of the application may be obtained;

(b) A statement that the recipient has twenty (20) days within which to file an objection to the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed; and

(c) A statement that the applicant has met and conferred with, or offered to meet and confer with, each coal interest holder concerning the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed.

Section 45. KRS 349.020 is amended to read as follows:

(1) If the drilling of a coalbed methane well could adversely affect the present or future use or operation of a workable coalbed, any coal interest holder may object to a proposed coalbed methane well, the well's location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed. Any coal interest holder, within twenty (20) days of receipt of the plat by him or her and by the department, may file specific objections in writing with the department. The filed objections shall provide sufficient detail for the applicant to identify the nature and substance of the objection. The department shall notify the applicant of the objections and fix a time and place for a hearing before the review board to be conducted in accordance with KRS Chapter 13B and this chapter.

(2) If any coal interest holder, notified pursuant to KRS 349.015, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him or her and by the department. The person also shall request that a pooling order be entered pursuant to KRS 349.080(1).

(3) If the record oil and gas lessor, lessee, or well operator notified pursuant to KRS 349.015, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real

property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him. The person shall request that a pooling order be entered pursuant to KRS 349.080(1).

(4) If no objections are filed within the twenty (20) day period, the department shall immediately issue a drilling permit to the well operator approving the location of the well and authorizing the well operator to proceed to drill at that location, provided all other preconditions to issuance of a permit, as contained in this chapter, have been met.

(5) Upon receipt of an application to drill a coalbed methane well, the department shall provide a copy of the required plat and permit application to ***the division***[~~DSMRE~~]. Within fifteen (15) days of receipt by ***the division***[~~DSMRE~~] notification shall be sent to the department by ***the division***[~~DSMRE~~] as to whether the proposed coalbed methane well will be located within the boundaries of any coal mine for which a permit has been issued or has been applied for pursuant to KRS Chapter 350. If the proposed coalbed methane well is to penetrate a workable coalbed that is within the area of an existing permit for an underground mine issued by ***the division***[~~DSMRE~~], or the proposed permitted area of a pending application or permit modification for an underground mine before ***the division***[~~DSMRE~~], the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to stimulate, complete, or horizontally drill the coalbed methane well in the workable coalbed that is within the area of an existing permit for an underground mine issued by ***the division***[~~DSMRE~~] or within the proposed permitted area of a pending application or permit modification for an underground mine before ***the division***[~~DSMRE~~]. If the proposed coalbed methane well is to be located within a surface area permitted, or proposed in a pending application or permit modification to be issued by ***the division***[~~DSMRE~~], the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to drill the coalbed methane well. In the absence of the written authorization of the mine permittee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well if:

(a) Authorization has been denied by the mine permittee; and

(b) The proposed location and area to be disturbed by the proposed coalbed methane well has achieved either a partial bond release status or the bond for the area has been forfeited.

Section 46. KRS 349.040 is amended to read as follows:

(1) It is unlawful for any person to drill, commence, operate, deepen, convert, or stimulate any coalbed methane well, to conduct any horizontal drilling of a coalbed methane well or to convert any existing oil or natural gas well to a coalbed methane well, without first securing from the department a permit pursuant to this chapter. Before any well, borehole, or facility initially used for a coal mining related purpose, such as a vent hole, is converted for the purpose of recovering coalbed methane for sale or use, the operator shall obtain a permit and comply with the provisions of this chapter prior to the time that the well, borehole, or facility is converted or used for the purpose of recovering coalbed methane for sale or use. It is unlawful for any person to drill, deepen, convert, or reopen a coalbed methane well for the production of oil or natural gas or for the injection of water, gas, or other fluids into any oil or natural gas producing formation until the person has obtained a permit from the department for a petroleum or natural gas well pursuant to KRS 353.570. However, no additional permit fee shall be required if the original permit for the coalbed methane well has not expired.

(2) Every permit application filed under this section shall be verified and shall contain the following:

(a) A statement that the applicant claims to have a valid real property interest in, or the current legal right to produce coalbed methane from a person claiming a valid real property interest in, the coalbed methane. The statement shall identify with specificity the nature of the real property interest and the document or instrument evidencing that interest or right, including recording information of any recorded document or instrument;

(b) The names and addresses of the coalbed methane well operator and every person or entity whom the applicant must notify under any section of this chapter;

(c) The name and address of each coal interest holder of any workable coalbed which is to be penetrated by a proposed coalbed methane well or within seven hundred fifty (750) horizontal feet or fifty (50) vertical feet of any portion of the proposed coalbed methane well;

(d) The name and addresses of each record oil and gas lessee of, the record oil and gas lessor of, and the operator of all oil and gas formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the coalbed methane well is proposed to be located;

(e) The coalbed methane well name or such other identification as the department may require;

(f) The approximate depth to which the coalbed methane well is to be drilled, deepened, or converted, the coal seams including the depth and thickness of each seam that will be completed for production, and any other coal seams which will be penetrated by the coalbed methane well;

(g) A description of any means to be used to stimulate any of the workable coalbeds penetrated by the coalbed methane well;

(h) If the proposed coalbed methane well will require casing or tubing, the entire casing program for the coalbed methane well, including the size of each string of pipe, the starting point and depth to which each string is to be set, and the extent to which each string is to be cemented;

(i) If the proposed operation is to convert an existing petroleum or natural gas well, as defined in KRS 353.010(13), or to convert a vertical borehole or facility initially used for a coal mining related purpose, such as a vent hole, to a coalbed methane well, all information required by this section, all formations from which production is anticipated, and any plans to plug any portion of the well;

(j) Except for a vent hole proposed to be converted to a coalbed methane well, if the proposed coalbed methane well will be completed in some but not all coal seams for production, a plan and design for the coalbed methane well which will protect all workable coalbeds which will be penetrated by the coalbed methane well;

(k) If the proposed operations will include horizontal drilling of a coalbed methane well, a description of the operations, including both the vertical and horizontal alignment and extent of the coalbed methane well from the surface to total depth; and

(l) Other information as the department may require consistent with this chapter.

(3) Each application for a coalbed methane well permit shall be accompanied by the following:

(a) A permit application fee of three hundred dollars ($300);

(b) A bond in an amount prescribed in KRS 349.120;

(c) A certificate that the applicant's notice requirements of KRS 349.015 have been satisfied. Certification may be by affidavit of personal service, or the return receipt card, or other postal receipt, for certified mailing;

(d) If the proposed coalbed methane well will be located within one-half (1/2) of a mile, measuring horizontally, of a water supply well being used for residential or domestic purposes, the applicant will submit the groundwater protection plan required under KRS 224.70-110 and applicable administrative regulations promulgated pursuant thereto for review by the department, or demonstrate to the department that a plan is not required; and

(e) Proof that the applicant has public liability insurance coverage in an amount not less than five hundred thousand dollars ($500,000) in aggregate and three hundred thousand dollars ($300,000) per occurrence for damages to persons and property caused by the applicant's operations or proof that the applicant has satisfied self-insurance requirements as provided by administrative regulations which shall be promulgated by the department.

(4) Prior to the department's issuance of a permit to drill a coalbed methane well, a copy of the written authorization from the mine licensee shall be filed with the application under the following circumstances:

(a) If the proposed coalbed methane well is to penetrate a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before the ***division***~~[DSMRE]~~ and if the applicant plans to stimulate, complete, or horizontally drill the coalbed methane well in a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before ***the division***~~[DSMRE]~~;

(b) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit, or the proposed permitted area of a permit pending before ***the division***~~[DSMRE]~~ for which no bond release has been obtained; or

(c) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit by ***the division***~~[DSMRE]~~ for which a partial bond release has been obtained.

If a coalbed methane well permit is issued for a well site located within the boundaries of any coal mine for which a permit has been issued or is pending pursuant to KRS Chapter 350, the permit shall include a provision specifically stating that the permitted coalbed methane well location is in an area for which a coal mine permit has been issued or is pending pursuant to KRS Chapter 350 and is subject to the mine-through rights set forth in KRS 349.030(1).

(5) If a partial bond release for the surface area on which the proposed coalbed methane well is located has been obtained from ***the division***~~[DSMRE]~~ and the applicant is denied written authorization from the mine licensee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well. When requesting an appeal, the applicant shall submit a verified statement including the following:

(a) The applicant has met and conferred with or offered to meet and confer with the mine licensee concerning the authorization;

(b) The mine licensee has refused to provide written authorization to disturb the permitted area;

(c) The physical area to be disturbed by the proposed well location and the use of area, including ingress and egress thereto, qualifies as a commercial or industrial postmining land use entitling the mine licensee to a complete bond release for the area to be disturbed by the coalbed methane well operator in accordance with KRS Chapter 350; and

(d) The applicant has agreed to pay the reasonable and actual costs of the permit revision required by ***the division***~~[DSMRE]~~ to affect the incremental bond release for the proposed area to be disturbed by the coalbed methane well operator, not to exceed five thousand dollars ($5,000).

(6) Prior to the issuance of a permit to drill a coalbed methane well, the applicant shall grant assignable subsidence waivers to any mine licensee if requested in an objection filed pursuant to KRS 349.060 and, if required, to allow present or future mining with planned subsidence under KRS Chapter 350. However, this subsection and any subsidence waivers shall in no way waive, affect, or impair the ability of the applicant or the applicant's successors or assigns to pursue any remedies for

damages to persons, or to improved or tangible property, suffered or incurred as a result of any subsidence caused by the mine licensee or the mine licensee's successors or assigns. The mine licensee, its successors or assigns, shall be liable for any and all damages to persons or to improved or tangible property proximately caused by the mine licensee.

(7) If the mine licensee is mining in a coal seam that is not being produced by the coalbed methane well operator and has not exercised his or her mine-through rights, as set forth in KRS 349.030(1) or (2), in any coal mine before removing any coal or other material or driving any entry or passageway within five hundred (500) horizontal feet of the vertical segment of a coalbed methane well or within fifty (50) vertical feet of the horizontal segment of a coalbed methane well, the mine licensee shall forward simultaneously to the well operator and to the department, by certified mail, return receipt requested, or by registered mail, a copy of the maps and plans required by law to be filed and kept up to date. Maps or plans shall show the mine workings and projected mine workings within five hundred (500) horizontal feet of the coalbed methane well. However, the issuance of any coalbed methane well permit shall not preclude or prevent coal mining outside two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of a coalbed methane well or outside of the workable coalbed in which the horizontal segment of a coalbed methane well is located, unless specified by the department for reasons of mine or well safety. The mine licensee shall not mine within fifty (50) feet of the vertical segment of a coalbed methane well without the written authorization of the coalbed methane well operator. A mine licensee may file a request with the department to mine closer than two hundred (200) feet of the vertical segment of the coalbed methane well. The mine licensee shall forward simultaneously to the well operator and the department, by certified mail, return receipt requested, or by registered mail, a request to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, which shall be accompanied by the following:

(a) A copy of the maps and plans required by law to be filed and kept up to date, showing on the copy of the map or plan its mine plan workings and projected mine workings beneath the tract of land and within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well; and

(b) A statement that the applicant has met and conferred with, or offered to meet and confer with, the well operator concerning the mine licensee's plan to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well.

The well operator may, within twenty (20) days of receipt of the documents listed in paragraphs (a) and (b) of this subsection, file specific objections in writing with the department. When objections are filed, the department shall provide a copy of the objections to the mine licensee and fix a time and place for an informal hearing. The hearing shall be held not more than ten (10) days from the end of the twenty (20) day period. At the hearing, the mine licensee and the well operator, in person or by representative, shall consider the objections and seek agreement on the character and the extent of operations to be conducted within less than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well. If no agreement can be reached, the department, after administrative hearing conducted in accordance with KRS Chapter 13B, shall make a decision defining what coal, if any, is necessary to be left for the safe protection, use, and operation of the well. The department's decision shall be subject to appeal by either party as provided in this chapter. The department shall keep a complete record of all hearings. The mine licensee shall, every six (6) months, while mining within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, file up-to-date maps and plans required by this section, or file new maps and plans complete to date.

(8) The department may deny the issuance of a permit if it determines that the applicant has a documented pattern or practice of substantial violations of the provisions of this chapter and has failed to abate or seek review of the violations. If the department finds that a substantial violation has occurred with respect to existing operations and that the operator has failed to abate or seek review of the violation in the time prescribed, the department may suspend the permit. After a suspension, the operator shall forthwith cease all work being conducted under the permit until the department reinstates the permit. The department shall make a written finding of its determination and may enforce the determination in Circuit Court pursuant to KRS 349.145.

Section 47. KRS 349.055 is amended to read as follows:

(1) The Coalbed Methane Well Review Board is hereby established. The review board shall be composed of five (5) members and shall have the powers and duties specified under this chapter.

(2) The review board shall consist of the commissioner of the Department ***for***~~[of]~~ Natural Resources or his or her designee within the department, the ***director of the Division of Mine Reclamation and Enforcement***~~[commissioner of the Department of Mines and Minerals]~~, and the director of the Division of Oil and Gas ***Conservation*** within the Department ***for Natural Resources***~~[of Mines and Minerals]~~, a representative of the oil and gas industry, and a representative of the coal industry. The representatives from the oil and gas industry and the coal industry shall be appointed by the Governor for terms of four (4) years subject to confirmation by the Senate.

(3) The review board shall be, for administrative purposes only, attached to the ***Environmental and Public Protection Cabinet, Department for Natural Resources***~~[Division of Oil and Gas within the Department of Mines and Minerals]~~.

Section 48. KRS 350.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of

obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. Excavation for the purpose of obtaining coal includes extraction of coal from refuse piles. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two hundred fifty (250) tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;

(9) "Person" means any individual, partnership, corporation, association, society, joint stock company, firm, company, or other business organization and shall also include any agency, unit, or instrumentality of federal, state, or local government including any publicly-owned utility or publicly-owned corporation of federal, state, or local government;

(10) "Cabinet" means the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet;

(11) "Secretary" means the secretary of the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(16) "Certification" by a qualified registered professional engineer, as required by this chapter and administrative regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and administrative regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land.

(18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010(20).

(19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

(20) "Permit applicant" or "applicant" means a person applying for a permit.

(21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.

(22) "Unanticipated event or condition" as used in KRS 350.085(7) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(23) "Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under KRS 350.560(1) or (2).

(24) "Coal combustion by-products" means fly ash, bottom ash, scrubber sludge, and waste from fluidized bed combustion, produced by the combustion of coal. Coal combustion by-products do not include boiler slag, or residues of refuse derived fuels, such as municipal solid waste, tires, and solvents.

Section 49. KRS 350.028 is amended to read as follows:

The ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet shall have and exercise the following authority and powers:

(1) To adopt administrative regulations after a hearing pertaining to surface coal mining operations including strip mining and the surface effects of underground mining to accomplish the purposes of this chapter;

(2) To conduct investigations and hearings under provisions of this chapter or regulations adopted pursuant thereto;

(3) To issue, after an opportunity for a hearing, suspension orders or show cause orders requiring an operator, permittee, or person to adopt remedial measures that are necessary to comply with this chapter and administrative regulations adopted pursuant thereto. Failure to attend a hearing shall be excused for good cause shown;

(4) To issue, after an opportunity for a hearing, a final order imposing civil penalties for violations of this chapter or directing the ***Department for Natural Resources***[~~Kentucky Bureau of Surface Mining Reclamation and Enforcement~~] to revoke a permit, when the requirements set forth by the notice of noncompliance, order of cessation, or an order of the cabinet requiring remedial measures have not been complied with according to the terms therein. When the secretary or his authorized representatives determines that a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed, and if the secretary or his authorized representatives also find that the violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions or that the violations are willfully caused by the permittee, the secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked and shall provide an opportunity for a hearing. Failure to attend a hearing shall be excused for good cause shown; and

(5) To adopt administrative regulations to allow the state to administer and enforce the initial and permanent regulatory programs of Public Law 95-87, "Surface Mining Control and Reclamation Act of 1977." Administrative regulations shall be no more stringent than required by that law. Nothing in this chapter shall be construed as superseding, amending, modifying, or repealing any of the acts listed in Section 702(a) of Public Law 95-87, or any administrative regulation promulgated thereunder.

Section 50. KRS 350.035 is amended to read as follows:

(1) There is established within the cabinet a Department for ***Natural Resources***[~~Surface Mining Reclamation and~~

~~Enforcement~~] which shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The secretary may divide the department into a ***Division of Mine Reclamation and Enforcement,*** Division of ***Mine*** Permits, ***Division of Abandoned Mine Lands,*** Division of Standards and Specifications, Division of Operations and Enforcement, an Office of Special Investigation, and any other offices or divisions as the secretary may deem necessary to perform the functions, powers, and duties of the department, subject to the provisions of KRS Chapter 12.

(2) The secretary shall have the power to appoint not more than fifteen (15) special investigations officers who shall be peace officers except for purposes of KRS 527.020. Such peace officers shall be responsible for enforcement of the provisions of this chapter relating to criminal offenses.

Section 51. KRS 350.260 is amended to read as follows:

There is hereby created a Small Coal Operators Advisory Council which shall report directly to the secretary of the Governor's Executive Cabinet. The council shall advise on matters affecting coal production and utilization including coal market development, transportation, and storage problems. The council shall have the function of coordinating and improving the working relationships between those state agencies administering programs which regulate, serve, or aid small coal mine operators. The council shall consist of fifteen (15) members. Ten (10) of those members shall be appointed by the Governor. Seven (7) of the ten (10) members shall be full-time operators producing three hundred thousand (300,000) or fewer tons of coal per year. Three (3) of the ten (10) appointees shall be with backgrounds in one (1) or more of the following areas: transportation, marketing, mining education, and mining engineering. The secretary of the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet, the commissioners of the ***Department of*** Agriculture and ***the Department for Natural Resources***[~~Mines and Minerals Departments~~], and the special assistant to the Governor for coal and energy policy shall be ex officio members. Each individual appointment shall be for a four (4) year term which shall begin on July 15, 1984. Members may serve successive terms if reappointed. Vacancies shall be filled in a manner consistent with the provisions for initial appointments. At the first meeting held on or after July 1 of each year, a chairman shall be elected by and from the membership. The council shall meet at least quarterly during each year and may meet more often at the call of the chairman. The council shall be attached to the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet for administrative purposes. Council members shall be eligible for reimbursement by the cabinet for actual expenses directly related to serving on the council.

Section 52. KRS 350.425 is amended to read as follows:

The permittee, operator, or other person shall design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to subsection (f) of Section 515 of Public Law 95-87, "Surface Mining Control and Reclamation Act of 1977," all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments. The ***Environmental and Public Protection Cabinet***[~~Kentucky Department of Surface Mining~~] through this chapter shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream, which structures or obstructions are permitted under this chapter.

Section 53. KRS 350.430 is amended to read as follows:

The permittee or operator shall:

(1) Provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident living within one-half (1/2) mile of the proposed blasting site and by providing daily notice to resident/occupiers in the areas prior to any blasting;

(2) Maintain for a period of at least three (3) years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

(3) Limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface water outside the permit area;

(4) Require that all blasting operations be conducted by trained and competent persons as certified by the Department ***for Natural Resources***[~~of Mines and Minerals~~]; and

(5) Provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half (1/2) mile of any portion of the permitted area the applicant or permittee shall conduct a preblasting survey of the structures and submit the survey to the cabinet and a copy to the resident or owner making the request. The area of the survey shall be decided by the cabinet and shall include such provisions as the cabinet shall promulgate.[~~ The cabinet and the Department of Mines and Minerals are authorized to enter into agreements whereby the cabinet or the Department of Mines and Minerals administers part or all of this section.~~]

(6) Penalties for violations of this section are those set forth in KRS 350.990.

Section 54. KRS 351.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Approved" means that a device, apparatus, equipment, or machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(c) "Board" means the Mining Board created in KRS 351.105;

(d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(e) "Commission" means the Mine Safety Review Commission created by KRS 351.1041;

(f) "Commissioner" means commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(g) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(h) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(i) "Excavations and workings" means the excavated portions of a mine;

(j) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(k) "Gassy mine." All mines shall be classified as gassy or gaseous;

(l) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(m) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(n) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units, shall be considered a separate mine;

(o) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;

(p) "Open-pit mine" shall include open excavations and open-cut workings, including but not limited to auger operations and highwall mining systems for the extraction of coal;

(q) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(r) "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;

(s) "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;

(t) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(u) "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(v) "Slope" means an inclined opening used for the same purpose as a shaft;

(w) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;[~~ and~~]

(x) "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein***;***

(y) "Office" means the Office of Mine Safety and Licensing; and

(z) "Executive director" means the executive director of the Office of Mine Safety and Licensing.

(2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.

(3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 55. KRS 351.020 is amended to read as follows:

(1) The Department ***for Natural Resources***[~~of Mines and Minerals~~] shall be headed by the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~].

(2) The department shall administer all laws of the Commonwealth relating to mines.

Section 56. KRS 351.051 is amended to read as follows:

The Governor shall appoint a commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~].

Section 57. KRS 351.060 is amended to read as follows:

(1) The commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~] shall be a citizen of Kentucky and shall be thoroughly familiar with all methods of safety pertaining to the operation of mines.

(2) The commissioner shall have a practical knowledge of:

(a) The different systems of working and ventilating coal mines;

(b) The nature, chemistry, and properties of noxious, poisonous, and explosive gases, the dangers due to these gases, and the prevention of these dangers;

(c) The dangers incident to blasting and the prevention of these dangers;

(d) The methods for the management and extinguishment of mine fires;

(e) The methods for rescue and relief work in mine disasters;

(f) The application of electricity in mining operations;

(g) The application of mechanical loading in mining operations;

(h) The equipment and explosives manufactured for use in coal mines;

(i) The methods used in locating oil and gas wells when drilled through any coal seam;

(j) The proper manner of drilling and plugging oil and gas wells;

(k) Mining engineering; and

(l) The methods for the prevention of explosions in mines due to gas or dust.

(3) The commissioner shall be capable of efficiently reporting on any proposed development in mining operations or the possibility of operating any coal or clay seam.

(4) The commissioner shall hold a mine inspector's certificate.

Section 58. KRS 351.070 is amended to read as follows:

(1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department. ***There is created within the Department for Natural Resources an Office of Mine Safety and Licensing.***

(2) ***The commissioner***[~~He~~] shall appoint ***an executive director to the Office of Mine Safety and Licensing***[~~a deputy commissioner of the Department of Mines and Minerals~~] and prescribe his powers and duties.

(3) ***The commissioner***[~~He~~] may, whenever necessary, divide the coal fields of the state into as many inspection districts as necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.

(4) ***The commissioner***[~~He~~] may, whenever he deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one (1) district to another.

(5) ***The commissioner***[~~He~~] shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.

(6) ***The commissioner***[~~He~~] shall collect statistics relating to coal mining in the state and make an annual report of the statistics.

(7) ***The commissioner***[~~He~~] shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.

(8) ***The commissioner***[~~He~~] shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.

(9) ***The commissioner***[~~He~~] shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.

(10) ***The commissioner***[~~He~~] shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.

(11) ***The commissioner***[~~He~~] may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.

(12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.

(13) The commissioner shall have the power and authority to promulgate, amend, or rescind any administrative regulations he ***or she*** deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the commissioner only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.

(14) The commissioner shall ascertain the cause or causes of any coal mining fatality and, within sixty (60) days of completion of the investigation, shall report his findings and recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. The recommendations may include, without being limited to, the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality.

Section 59. KRS 351.242 is amended to read as follows:

(1) There is hereby created in the department ***a mine safety analysis program***[~~the Division of Mine Safety Analysis~~].

(2) Persons employed in the ***department***[~~division~~] as underground or surface mine safety analysts shall satisfy the applicable requirements established in KRS 351.090.

(3) The primary responsibility of the safety analyst is to prevent mine accidents and fatalities by observing and evaluating the work habits of persons involved in the direct production of coal and to contact, advise, and assist these persons in correcting their unsafe or potentially hazardous actions.

(4) The safety analyst shall have the same powers as a mine inspector of the department, but these powers shall be considered secondary to the primary responsibilities provided in subsection (3) of this section. Each time a safety analyst enters a mine to perform his primary responsibility, he shall confer with the foreman as to the conditions of the mine and the work practices of the employees.

(5) The safety analyst shall keep mine management, representatives of the employees, and the commissioner informed about all hazardous conditions and all matters which may improve the safety of mines.

(6) The ***office***[~~division~~] shall assist the ***department***[~~Division of Miner Training, Education, and Certification~~] in assessing the effectiveness of miner training programs.

(7) The commissioner shall at his ***or her*** discretion assign safety analysts to all mines in the state taking into consideration such factors as the history of accidents at the mine, experience of the work force, physical condition of the mine, and size of the mine.

(8) The commissioner may coordinate the assignment of safety analysts with the appropriate federal authorities to minimize duplication of accident prevention efforts.

(9) The commissioner shall report annually to the General Assembly and to the Governor on the effectiveness of the safety analysts in improving mine safety.

Section 60. KRS 351.310 is amended to read as follows:

As used in KRS 351.315 to 351.375 unless the context clearly indicates otherwise:

(1) "Explosives" means any chemical compound or other substance or mechanical system intended for the purpose of producing an explosion, or that contains oxidizing and combustible units or other ingredients in such proportions or quantities that ignition by detonation may produce an explosion, capable of causing injury to persons or damage to property;

(2) "Blasting operation" means the use of explosives in the surface blasting of stone, rock, ore or any other natural formation, or in any construction or demolition work, but shall not include its use in agricultural operations;

(3) "Blaster" means a person licensed to fire or detonate explosives in blasting operations;

(4) "Charge" means a quantity of explosive or equivalent that is to be detonated within a period of five (5) seconds;

(5) "Subcharge" means a quantity of explosive or equivalent that is to be detonated within a period of less than eight (8) milliseconds;

(6) "Detonation time" means the time at which the detonation is initiated;

(7) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(8) "Commissioner" means the commissioner of ***the Department for Natural Resources***[~~mines and minerals~~].

Section 61. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(e) "Board" means the Mining Board created in KRS 351.105;

(f) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(g) "Commissioner" means commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(h) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(j) "Excavations and workings" means the excavated portions of a mine;

(k) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(l) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(m) "Gassy mine." All underground mines shall be classified as gassy or gaseous;

(n) "High voltage" means any voltage of one thousand (1,000) volts or more;

(o) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;

(p) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(q) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(r) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(s) "Low voltage" means up to and including six hundred sixty (660) volts;

(t) "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;

(u) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;

(v) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;

(w) "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;

(x) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(y) "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;

(z) "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;

(aa) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(ab) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(ac) "Slope" means an inclined opening used for the same purpose as a shaft;

(ad) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(ae) "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(af) "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;

(ag) "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;

(ah) "Working place" means the area of a coal mine inby the last open crosscut;

(ai) "Working section" means all areas of a coal mine from the loading point to and including the working faces; and

(aj) "Workmanlike manner" means consistent with established practices and methods utilized in the coal industry.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010 and shall not apply to electrical facilities owned, operated, or otherwise controlled by a retail electric supplier or generation and transmission cooperative as defined in KRS 278.010 or organized under KRS Chapter 279 for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established easement rights on private property and that are covered by the National Electric Safety Code (NESC) or other applicable safety codes, or other authorities having jurisdiction and shall not apply to installations under the exclusive control of utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established rights on private property.

Section 62. KRS 353.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Barrel" or "barrel of oil" means forty-two (42) standard United States liquid measure gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit.

(2) "Casing" means a string or strings of pipe commonly placed in wells drilled for natural gas and petroleum.

(3) "Cement" means hydraulic cement properly mixed with water only.

(4) "Coal operator" means any person who proposes to or does operate a coal mine.

(5) "Cubic feet of gas" means the volume of gas contained in one (1) cubic foot of space at a standard pressure base of fourteen and seventy-three hundredths (14.73) pounds per square inch and a temperature base of sixty (60) degrees Fahrenheit.

(6) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~].

(7) "Gas" means natural gas.

(8) "Gas well" means any well which:

(a) Produces natural gas not associated or blended with crude petroleum oil any time during production; or

(b) Produces more than ten thousand (10,000) cubic feet of natural gas to each barrel of crude petroleum oil from the same producing horizon.

(9) "Oil" means petroleum.

(10) "Oil well" means any well which produces one (1) barrel or more of oil to each ten thousand (10,000) cubic feet of natural gas.

(11) "Plat" means a map, drawing, or print showing the location of a well.

(12) "Unit" means any tract or tracts which the department has determined is underlaid by a pool or pools of oil and associated gas, and is not a "drilling unit" as defined in KRS 353.510(19).

(13) "Well" means a borehole drilled or proposed to be drilled for the purpose of producing natural gas or petroleum, or one through which natural gas or petroleum is being produced.

(14) "Well operator" means any person who proposes to or does locate, drill, operate, or abandon any well.

(15) "Workable bed" means:

(a) A coal bed actually being operated commercially,

(b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years, or

(c) Any coal bed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through it.

Section 63. KRS 353.510 is amended to read as follows:

As used in KRS 353.500 to 353.720, unless the context otherwise requires:

(1) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~] as defined in KRS 351.010;

(2) "Commissioner" means the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~] as defined in

KRS 351.010;

(3) "Director" means the director of ***the Division of*** Oil and Gas Conservation as provided in KRS 353.530;

(4) "Commission" means the Kentucky Oil and Gas Conservation Commission as provided in KRS 353.565;

(5) "Person" means any natural person, corporation, association, partnership, receiver, governmental agency subject to KRS 353.500 to 353.720, trustee, so-called common-law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(6) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof;

(7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

(8) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined in subsection (7) of this section as oil;

(9) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each productive zone of a general structure which is completely separated from any other zone in the structure, or which for the purpose of KRS 353.500 to 353.720 may be so declared by the department, is covered by the word "pool" as used herein;

(10) "Field" means the general area which is underlaid or appears to be underlaid by at least one (1) pool; and "field" includes the underground reservoir containing oil or gas or both. The words "field" and "pool" mean the same thing when only one (1) underground reservoir is involved; however, "field," unlike "pool," may relate to two (2) or more pools;

(11) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts;

(12) "Abandoned," when used in connection with a well or hole, means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of oil or gas or for the injection or disposal of fluid therein;

(13) "Workable bed" means:

(a) A coal bed actually being operated commercially;

(b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

(c) A coal bed which, from outcrop indications or other definite evidence, proves to the satisfaction of the commissioner to be workable, and which, when operated, will require protection if wells are drilled through it;

(14) "Well" means a borehole drilled, shaft driven, or hole dug or such proposed or otherwise used for the purpose of producing natural gas or petroleum, or one through which natural gas or petroleum is being produced, or for the purpose of injecting any water, gas, or other fluid therein or one into which any water, gas, or other fluid is being injected;

(15) "Shallow well" means any well drilled and completed at a depth less than four thousand (4,000) feet except, in the case of any well drilled and completed east of longitude line 84 degrees 30'; shallow well means any well drilled and completed at a depth less than four thousand (4,000) feet or above the base of the lowest member of the Devonian Brown Shale, whichever is the deeper in depth;

(16) "Deep well" means any well drilled and completed below the depth herein provided for a shallow well;

(17) "Operator" means any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as "operator" to the extent of seven-eighths (7/8) of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one-eighth (1/8) interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the right to develop, operate, and produce the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool;

(18) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that such owner is not an operator as defined in subsection (17) of this section;

(19) "Drilling unit" generally means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable oil or gas in such area. Where the regulatory authority has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, such area shall be a drilling unit;

(20) "Underground source of drinking water" means those subsurface waters identified as such in regulations promulgated by the department which shall be consistent with the definition of underground source of drinking water in regulations promulgated by the Environmental Protection Agency pursuant to the Safe Drinking Water Act, 42 U.S.C. secs. 300(f) et seq.;

(21) "Underground injection" means the subsurface emplacement of fluids by well injection but does not include the

underground injection of natural gas for purposes of storage;

(22) "Endangerment of underground sources of drinking water" means underground injection which may result in the presence in underground water, which supplies or can reasonably be expected to supply any public water system, of any contaminant and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons;

(23) "Class II well" means wells which inject fluids:

(a) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

(b) For enhanced recovery of oil or natural gas; and

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure;

(24) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

Section 64. KRS 353.530 is amended to read as follows:

(1) The Governor shall appoint, as director of ***the Division of*** Oil and Gas Conservation in the Department ***for Natural Resources***[~~of Mines and Minerals~~], a person who has, at the time of his appointment, at least five (5) years' experience in the exploration for or the production of oil or gas.

(2) It shall be his duty to administer the provisions of KRS 353.500 to 353.720 subject to the direction and supervision of the commissioner.

(3) Before taking office, the director shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate shall be filed in the office of the Secretary of State.

(4) No director shall, while holding office, acquire any financial interest, directly or indirectly, in any venture or activity for the exploration for or production of oil or gas in this Commonwealth.

Section 65. The following KRS sections are repealed:

224.10-030 Bodies attached for administrative purposes.

224.10-055 Powers and duties of Governor.

224.10-060 Prior energy regulations and actions in effect until modified.

Section 66. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 67. Any portion of law to the contrary notwithstanding, the General Assembly hereby confirms the Governor's Executive Order 2004-731 dated July 9, 2004, relating to the Environmental and Public Protection Cabinet, to the extent not otherwise confirmed or superseded by this Act.

SB 45 was read for the first time by title and sponsor only and placed in the Calendar.

SB 45 is as follows:

SB 45, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice ***and Public Safety*** Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The

cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice ***and Public Safety*** Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Development Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 3. KRS 11.5163 is amended to read as follows:

(1) The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the chief information officer for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.

(3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the chief information officer, the Governor's Office for Policy and Management, and the General Assembly.

(4) The chief information officer shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.

(5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, Governor's Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice ***and Public Safety*** Cabinet;

(g) The chief information officer of the ***Department of*** Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Division of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office for Security Coordination, Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(6) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(7) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(8) The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(9) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(10) The committee may establish additional working groups as determined by the committee.

Section 4. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

   (a) Secretary of State.

   (b) Board of Elections.

   (c) Registry of Election Finance.

4. Department of Law.

   (a) Attorney General.

5. Department of the Treasury.
(a) Treasurer.
6. Department of Agriculture.
(a) Commissioner of Agriculture.
(b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.
II. Program cabinets headed by appointed officers:
1. Justice ***and Public Safety*** Cabinet:
(a) Department of ***Kentucky*** State Police.
(b) Department of Criminal Justice Training.
(c) Department of Corrections.
(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) ***Office of Drug Control Policy***[~~Offices of the Deputy Secretaries~~].
(g) Office of ***Legal Services***[~~General Counsel~~].
(h) ***Office***[~~Division~~] of ***the***[~~Kentucky~~] State Medical ***Examiner***[~~Examiners Office~~].
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) ***Department of Kentucky Vehicle Enforcement.***
(l) Office of Public Safety Training.
(m) Office of Management and Administrative Services.
(n) Office of Legislative and Intergovernmental Services.
(o) Office of Investigations.
(p) Department for Public Advocacy[~~Commission on Correction and Community Service~~].
2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
(1) Kentucky Board of Education.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.

   - (g) Office of Information Services.
   - (h) Office of Inspector General.
4. Transportation Cabinet:
   - (a) Department of Highways.
     1. Office of Program Planning and Management.
     2. Office of Project Development.
     3. Office of Construction and Operations.
     4. Office of Intermodal Programs.
     5. Highway District Offices One through Twelve.
   - (b) Department of Vehicle Regulation.
   - (c) Department of Administrative Services.
   - (d) Department of Fiscal Management.
   - (e) Department of Rural and Municipal Aid.
   - (f) Department of Human Resources Management.
   - (g) Office of the Secretary.
   - (h) Office of General Counsel and Legislative Affairs.
   - (i) Office of Public Affairs.
   - (j) Office of Transportation Delivery.
   - (k) Office of Minority Affairs.
   - (l) Office of Policy and Budget.
   - (m) Office of Technology.
   - (n) Office of Quality.
   - (o) Office of the Transportation Operations Center.
5. Cabinet for Economic Development:
   - (a) Department of Administration and Support.
   - (b) Department for Business Development.
   - (c) Department of Financial Incentives.
   - (d) Department of Community Development.
   - (e) Department for Regional Development.
   - (f) Tobacco Research Board.
   - (g) Kentucky Economic Development Finance Authority.
6. Environmental and Public Protection Cabinet:
   - (a) Public Service Commission.
   - (b) Department of Insurance.
   - (c) Department of Housing, Buildings and Construction.
   - (d) Department of Financial Institutions.
   - (e) Department of Mines and Minerals.
   - (f)[~~Department of Public Advocacy.~~
   - ~~(g)~~] Department of Alcoholic Beverage Control.
   - ***(g)***[~~(h)~~] Kentucky Horse Racing Authority.
   - ***(h)***[~~(i)~~] Board of Claims.
   - ***(i)***[~~(j)~~] Crime Victims Compensation Board.
   - ***(j)***[~~(k)~~] Kentucky Board of Tax Appeals.
   - ***(k)***[~~(l)~~] Office of Petroleum Storage Tank Environmental Assurance Fund.
   - ***(l)***[~~(m)~~] Department of Charitable Gaming.
   - ***(m)***[~~(n)~~] Mine Safety Review Commission.
7. Cabinet for Families and Children:
   - (a) Department for Community Based Services.

- (b) Department for Disability Determination Services.
- (c) Public Assistance Appeals Board.
- (d) Office of the Secretary.
  - (1) Kentucky Commission on Community Volunteerism and Service.
- (e) Office of the General Counsel.
- (f) Office of Program Support.
- (g) Office of Family Resource and Youth Services Centers.
- (h) Office of Technology Services.
- (i) Office of the Ombudsman.
- (j) Office of Human Resource Management.

8. Cabinet for Health Services.
   - (a) Department for Public Health.
   - (b) Department for Medicaid Services.
   - (c) Department for Mental Health and Mental Retardation Services.
   - (d) Kentucky Commission on Children with Special Health Care Needs.
   - (e) Office of Certificate of Need.
   - (f) Office of the Secretary.
   - (g) Office of the General Counsel.
   - (h) Office of the Inspector General.
   - (i) Office of Aging Services.
9. Finance and Administration Cabinet:
   - (a) Office of Financial Management.
   - (b) Office of the Controller.
   - (c) Department for Administration.
   - (d) Department of Facilities Management.
   - (e) State Property and Buildings Commission.
   - (f) Kentucky Pollution Abatement Authority.
   - (g) Kentucky Savings Bond Authority.
   - (h) Deferred Compensation Systems.
   - (i) Office of Equal Employment Opportunity Contract Compliance.
   - (j) Office of Capital Plaza Operations.
   - (k) County Officials Compensation Board.
   - (l) Kentucky Employees Retirement Systems.
   - (m) Commonwealth Credit Union.
   - (n) State Investment Commission.
   - (o) Kentucky Housing Corporation.
   - (p) Governmental Services Center.
   - (q) Kentucky Local Correctional Facilities Construction Authority.
   - (r) Kentucky Turnpike Authority.
   - (s) Historic Properties Advisory Commission.
   - (t) Kentucky Tobacco Settlement Trust Corporation.
   - (u) Eastern Kentucky Exposition Center Corporation.
   - (v) State Board for Proprietary Education.
10. Labor Cabinet:
    - (a) Department of Workplace Standards.
    - (b) Department of Workers' Claims.
    - (c) Kentucky Labor-Management Advisory Council.
    - (d) Occupational Safety and Health Standards Board.

  - (e) Prevailing Wage Review Board.
  - (f) Workers' Compensation Board.
  - (g) Kentucky Employees Insurance Association.
  - (h) Apprenticeship and Training Council.
  - (i) State Labor Relations Board.
  - (j) Kentucky Occupational Safety and Health Review Commission.
  - (k) Office of Administrative Services.
  - (l) Office of Information Technology.
  - (m) Office of Labor-Management Relations and Mediation.
  - (n) Office of General Counsel.
  - (o) Workers' Compensation Funding Commission.
  - (p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
    - (a) Department of Property Valuation.
    - (b) Department of Tax Administration.
    - (c) Office of Financial and Administrative Services.
    - (d) Department of Law.
    - (e) Department of Information Technology.
    - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
    - (a) Department of Travel.
    - (b) Department of Parks.
    - (c) Department of Fish and Wildlife Resources.
    - (d) Kentucky Horse Park Commission.
    - (e) State Fair Board.
    - (f) Office of Administrative Services.
    - (g) Office of General Counsel.
    - (h) Tourism Development Finance Authority.
13. Cabinet for Workforce Development:
    - (a) Department for Adult Education and Literacy.
    - (b) Department for Technical Education.
    - (c) Department of Vocational Rehabilitation.
    - (d) Department for the Blind.
    - (e) Department for Employment Services.
    - (f) Kentucky Technical Education Personnel Board.
    - (g) The Foundation for Adult Education.
    - (h) Department for Training and Reemployment.
    - (i) Office of General Counsel.
    - (j) Office of Communication Services.
    - (k) Office of Workforce Partnerships.
    - (l) Office of Workforce Analysis and Research.
    - (m) Office of Budget and Administrative Services.
    - (n) Office of Technology Services.
    - (o) Office of Quality and Human Resources.
    - (p) Unemployment Insurance Commission.
14. Personnel Cabinet:
    - (a) Office of Administrative and Legal Services.
    - (b) Department for Personnel Administration.

(c) Department for Employee Relations.

(d) Kentucky Public Employees Deferred Compensation Authority.

(e) Kentucky Kare.

(f) Division of Performance Management.

(g) Division of Employee Records.

(h) Division of Staffing Services.

(i) Division of Classification and Compensation.

(j) Division of Employee Benefits.

(k) Division of Communications and Recognition.

(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 5. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;

(2) Department of Military Affairs;

(3) Department for Local Government;

(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;

(6) Kentucky Commission on Military Affairs;

(7) Kentucky Coal Council;

(8)[~~Governor's Office of Child Abuse and Domestic Violence Services;~~

~~(9)~~] Governor's Office for Technology;

(9)[~~(10)~~] Office of Coal Marketing and Export;

(10)[~~(11)~~] Agricultural Development Board;

(11)[~~(12)~~] Commission on Small Business Advocacy;

(12)[~~(13)~~] Office of Early Childhood Development;

(13)[(14) ~~Kentucky Agency for Substance Abuse Policy;~~

~~(15)~~] Education Professional Standards Board; and

(14)[~~(16)~~] Kentucky Agricultural Finance Corporation.

Section 6. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice ***and Public Safety*** Cabinet.

(2) Education, Arts, and Humanities Cabinet.

(3) Natural Resources and Environmental Protection Cabinet.

(4) Transportation Cabinet.

(5) Cabinet for Economic Development.

(6) Public Protection and Regulation Cabinet.

(7) Cabinet for Health Services.

(8) Cabinet for Families and Children.

(9) Finance and Administration Cabinet.

(10) Tourism Development Cabinet.

(11) Revenue Cabinet.

(12) Labor Cabinet.

(13) Cabinet for Workforce Development.

(14) Personnel Cabinet.

Section 7. KRS 12.330 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

(1) ***The Office of Drug Control Policy***[~~As used in KRS 12.330 to 12.334, "KY-ASAP" means the Kentucky Agency for Substance Abuse Policy.~~

~~(2) The Kentucky Agency for Substance Abuse Policy is created and attached for administrative purposes to the Office of the Governor. KY-ASAP shall be headed by an executive director with experience in overseeing programs involving tobacco and substance abuse and shall have other staff as necessary to conduct its affairs.~~

~~(3) KY-ASAP~~] shall administer an endowment from interest generated through funds appropriated or gifts, donations, or funds received from any source. ***The Office of Drug Control Policy***[~~KY-ASAP~~] may expend endowment principal, if necessary in its discretion, to carry out the purposes of ***Sections 7 to 9 of this Act***[~~KRS 12.330 to 12.334~~]. These expenditures from the endowment principal are hereby appropriated for this purpose.

(2)[~~(4)~~] (a) ***The Office of Drug Control Policy shall***[~~The eighteen (18) member KY-ASAP Board is created to~~] oversee the activities ***specified in Sections 7 to 9 of this Act***[~~of KY-ASAP. Membership of the board shall be appointed by the Governor and shall consist of the following:~~

~~1. One (1) member representing the Kentucky Family Resource Youth Services Coalition, or a designee;~~

~~2. One (1) member representing the Kentucky Health Department Association, or a designee;~~

~~3. The secretary of the Cabinet for Health Services, or designee;~~

~~4. The secretary of the Justice Cabinet, or a designee;~~

~~5. The secretary of the Cabinet for Families and Children, or a designee;~~

~~6. One (1) member representing the Division of Substance Abuse within the Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, or a designee;~~

~~7. The commissioner of the Department for Public Health, Cabinet for Health Services, or a designee;~~

~~8. The commissioner of the Department of Alcoholic Beverage Control, or a designee;~~

~~9. The commissioner of the Department of Education;~~

~~10. The director of the Administrative Office of the Courts, or a designee;~~

~~11. One (1) member representing the Kentucky Association of Regional Programs, or a designee;~~

~~12. One (1) member representing the Kentucky Heart Association, or a designee;~~

~~13. One (1) member representing the Kentucky Lung Association, or a designee;~~

~~14. One (1) member representing the Kentucky Cancer Society, or a designee;~~

~~15. Two (2) members representing local tobacco addiction and substance abuse advisory and coordination boards; and~~

~~16. Two (2) members representing private community-based organizations, whether for-profit or nonprofit, with experience in programs involving smoking cessation or prevention or alcohol or substance abuse prevention and treatment.~~

~~(b) Members shall serve for a term of four (4) years, may be reappointed, and may serve no more than two (2) consecutive terms. Members shall not be compensated but shall receive reimbursement for expenses incurred while performing board business.~~

~~(c) The board shall meet at least quarterly. A quorum of ten (10) members shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair~~].

(b)[~~(d)~~] The ***Office of Drug Control Policy***[~~board~~] shall:

1. Oversee deposits and expenditures from the endowment;

2. Request, in its discretion, an audit relating to the expenditure of endowment funds;

3. ***Prepare***[~~Receive~~] quarterly reports[~~ from the executive director~~] regarding ***local***[~~KY-ASAP's~~] activities; ***and***

4.[~~ Progress toward development and implementation of the strategic plan;~~

~~5. Recommend to KY-ASAP the most efficient means for using public funds to coordinate, supplement, and support high quality and ongoing programs of all public agencies and private service providers related to smoking cessation and prevention and alcohol and substance abuse prevention and treatment;~~

~~6. Recommend matters for review and analysis by KY-ASAP; and~~

~~7.~~] Perform other duties as necessary for the oversight of ***local activities***[~~KY-ASAP~~].

(3)[~~(5)~~] ***The Office of Drug Control Policy***[~~KY-ASAP~~] shall promote the implementation of research-based strategies that target Kentucky's youth and adult populations.

(4)[~~(6)~~] ***The Office of Drug Control Policy***[~~KY-ASAP~~] shall vigorously pursue the philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem because of the addictive qualities of nicotine, and because tobacco is the most prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

Section 8. KRS 12.332 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

The Office of Drug Control Policy shall be responsible for all matters relating to the research of, and the coordination and execution of, drug control policy and for the state and federal grants management including, but not limited to, the prevention, enforcement, and treatment related to substance abuse. All matters relating to drug usage, abuse, prevention, treatment, and enforcement conducted by and funded through agencies of the executive branch shall be reviewed, approved, and coordinated through the Office of Drug Control Policy. In addition, the Office of Drug Control Policy[~~KY-ASAP~~] shall:

(1) Develop a strategic plan[~~ to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky~~];

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. ***The Office of Drug Control Policy***[~~KY-ASAP~~] shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) Observe programs from other states;

(10)[~~ Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Department of Agriculture, the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education, Arts, and Humanities Cabinet;~~

~~(11)~~] Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;

(11)[~~(12)~~] Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;

(12)[~~(13)~~] Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;

(13)[~~(14)~~] Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(14)[~~(15)~~] Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(15)[~~(16)~~] Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(16)[~~(17)~~] Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults[~~. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently~~];

(17)[~~(18)~~] Certify to the Governor*, the secretary of the Justice and Public Safety Cabinet,* and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with *the Office of Drug Control Policy*[~~KY-ASAP~~], coordinated with community resources, and vigorously pursued the philosophy of *the Office of Drug Control Policy*[~~KY-ASAP~~];

(18)[~~(19)~~] Promulgate*, with the approval of the secretary of the Justice and Public Safety Cabinet,* any administrative regulations necessary to implement *Sections 7 to 9 of this Act*[~~KRS 12.330 to 12.334~~]; and

(19)[~~(20)~~] Report *annually* to the Legislative Research Commission and Governor[~~ by October 1, 2000, regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor~~] on the *status of Office of Drug Control Policy programs,*[~~proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of~~] services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 9. KRS 12.334 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

(1) *The Office of Drug Control Policy*[~~KY-ASAP~~] shall establish in each county a local tobacco addiction and alcohol and substance abuse advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse prevention, cessation, and treatment, although a single board may be established for multiple counties to ensure a comprehensive range of services. The board shall assist with the coordination of programs provided by public and private entities.[~~ If the existing programs of private service providers are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers.~~] The Cabinet for Health Services shall support the communities' efforts.

(2) *The Office of Drug Control Policy*[~~KY-ASAP~~] shall consult with community leaders to solicit the names of residents from the community to serve on each advisory and coordination board. *The Office of Drug Control Policy*[~~KY-ASAP~~] shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and *The Office of Drug Control Policy*[~~KY-ASAP~~] shall supply information as necessary to the advisory and coordination board to enable it to carry out its functions.

(3) *The Office of Drug Control Policy*[~~KY-ASAP~~] shall provide incentives to encourage multicounty advisory and coordination board requests and shall establish a single board to represent all counties making the request. Priority in establishing a board shall be given to existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.

(4) Each advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and promote effective treatment of substance abuse. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.

  (a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.

  (b) An assessment of needs and available services shall be included in the strategy.

Section 10. KRS 12.350 is amended to read as follows:

The Governor's Office of Child Abuse and Domestic Violence Services is hereby created and established within the Office of the Governor. The office shall be headed by an executive director, who shall be appointed by the Governor pursuant to KRS 11.040 and shall serve at the pleasure of and under the direction of the Governor.

(1) The office's duties, rights, and responsibilities shall include, but not be limited to, the following:

  (a) Provide coordinative functions so that no services funded or provided by state government agencies are duplicative so as to ensure the greatest efficiency in the use of resources and funding, and to ensure that a consistent philosophy underlies all efforts undertaken by the administration in initiatives related to child abuse, domestic violence, and rape or sexual assault.

  (b) Coordinate the legislative efforts of the administration related to child abuse, domestic violence and rape or sexual assault which shall include drafting legislative proposals and providing input to the Governor on the impact of legislation proposed by other agencies and government branches.

(c) Provide training and consultation to programs provided or funded by the state which provide services to victims of child abuse, domestic violence, rape or sexual assault, and other crimes.

(d) In conjunction with staff from the Justice ***and Public Safety*** Cabinet and the Cabinet for Families and Children and the Cabinet for Health Services, and with input from direct service providers throughout Kentucky, develop standards of care for victim and offender services provided or funded by the state.

(e) Design and implement research programs which attend to the quality of victim-related services.

(f) Provide consultation on the development of budgets for the rape crisis, child abuse, and domestic violence programs funded by the state.

(g) Provide recommendations to the Governor and to the Secretaries of the Justice ***and Public Safety*** Cabinet and the Cabinet for Families and Children and the Cabinet for Health Services, related to the improvement and expansion of victim services provided or funded by these agencies.

(h) Undertake new and progressive initiatives to improve and enhance the delivery of services to victims of child abuse, domestic violence, and rape or sexual assault.

(2) The Executive Director may, at the request of the Governor or any Secretary, serve as a designee on boards, commissions, task forces or other committees addressing child abuse, domestic violence and rape or sexual assault.

(3) The First Lady of the Commonwealth shall serve as special advisor to the office.

Section 11. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) Cabinet for Health Services

1. Office of Certificate of Need

a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B

b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for Families and Children

1. Department for Community Based Services

a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630

2. Department for Disability Determination Services

a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice ***and Public Safety*** Cabinet

1. Department of State Police

a. ***Kentucky*** State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

2. Department of Corrections

a. Parole Board hearings conducted under authority of KRS Chapter 439

b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197

3. Department of Juvenile Justice

a. Supervised placement revocation hearings conducted under KRS Chapter 635

(e) Labor Cabinet

1. Department of Workers' Claims

a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f) Natural Resources and Environmental Protection Cabinet

1. Department for Surface Mining Reclamation and Enforcement

a. Surface mining hearings conducted under authority of KRS Chapter 350

2. Department for Environmental Protection

a. Wild River hearings conducted under authority of KRS Chapter 146

b. Water resources hearings conducted under authority of KRS Chapter 151

c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223

d. Environmental protection hearings conducted under authority of KRS Chapter 224

(g) Kentucky Occupational Safety and Health Review Commission

1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(h) Public Protection and Regulation Cabinet

1. Board of Claims

a. Liability hearings conducted under authority of KRS Chapter 44

2. Public Service Commission

a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(i) Cabinet for Workforce Development

1. Department for Employment Services

a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(j) Secretary of State

1. Registry of Election Finance

a. Campaign finance hearings conducted under authority of KRS Chapter 121

(k) State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164

2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164

3. Campus residency hearings conducted under authority of KRS Chapter 164

4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following

criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

SECTION 12. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Criminal Justice Council is hereby created within the Justice and Public Safety Cabinet.

(2) The membership of the council shall consist of:

(a) The secretary of the Justice and Public Safety Cabinet, who shall serve as the chair;

(b) The Attorney General or his or her designee;

(c) The chair of the Judiciary Committee of the House of Representatives;

(d) The chair of the Judiciary Committee of the Senate;

(e) The executive director of the Administrative Office of the Courts or his or her designee;

(f) The president of the Kentucky Association of Criminal Defense Lawyers or his or her designee;

(g) The deputy secretary of the Justice and Public Safety Cabinet;

(h) The commissioner of the Department of Kentucky State Police;

(i) The commissioner of the Department of Criminal Justice Training;

(j) The commissioner of the Department of Corrections;

(k) The commissioner of the Department of Juvenile Justice;

(l) The Public Advocate of Kentucky or his or her designee; and

(m) A representative of the Commonwealth's Attorneys Association.

(3) The council shall undertake such research and other activates as may be authorized or directed by:

(a) The secretary of Justice and Public Safety Cabinet; or

(b) The General Assembly.

(4) The secretary of the Justice and Public Safety Cabinet shall serve ex officio as chair of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties. The council shall meet on the call of its chair.

(5) A simple majority of the members of the council shall constitute a quorum for the conduct of business at a meeting.

(6) The council is authorized to establish committees and appoint additional persons, who may not be members of the council, as necessary to effectuate its purposes.

(7) The council's administrative functions shall be performed by the executive director of the office of Legislative and Intergovernmental Services, appointed by the secretary of the Justice and Public Safety Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

Section 13. KRS 15.280 is amended to read as follows:

(1) A Criminal Justice Statistical Analysis Center is hereby created as part of the Kentucky Justice ***and Public Safety*** Cabinet.

(2) The Criminal Justice Statistical Analysis Center shall provide its reports and recommendations to the Governor and the General Assembly through the ***Justice and Public Safety Cabinet***[~~Kentucky Criminal Justice Council~~].

(3) The Criminal Justice Statistical Analysis Center shall:

(a) Improve the quality and usefulness of criminal justice statistics and research results that are disseminated to citizens, public agencies, and private agencies in Kentucky by:

1. Conducting periodic needs assessments of criminal justice agencies;
2. Analyzing offender-based tracking data;
3. Conducting specialized studies that use statistical data which are presently maintained by state and local agencies in Kentucky; and
4. Supporting the implementation of a statewide Unified Criminal Justice Information System***;***~~[through the Unified Criminal Justice Information System Committee of the Kentucky Criminal Justice Council.]~~

(b) ***Publish***~~[Increase the ability of statistical users to translate data and research results into practice by:~~

~~1. Publishing]~~ research results and statistical data that are requested by criminal justice agencies;~~[and~~

~~2. Conducting conferences and workshops on the use of statistical information;]~~

(c) Improve the relationship between citizens and criminal justice agencies of Kentucky by conducting citizen surveys of the needs, attitudes, and behavior relating to crime and justice; and

(d) Strengthen the relationship between~~[the]~~ Kentucky criminal justice agencies and the~~[National]~~ Bureau of Justice Statistics, United States Department of Justice, by:

1. Providing justice statistics to the Bureau of Justice Statistics as required; and
2. Serving as a clearinghouse for Bureau of Justice Statistics materials.

(4) The Kentucky Justice ***and Public Safety*** Cabinet may expend any federal grants or federal funds provided for carrying out the functions and authority as assigned in this section. Further, the Kentucky Justice ***and Public Safety*** Cabinet~~[through the Kentucky Criminal Justice Council]~~ may employ such employees as may be necessary to fulfill the duties, responsibilities, and functions assigned by this section.

Section 14. KRS 15.310 is amended to read as follows:

As used in KRS 15.315 to 15.510, 15.990, and 15.992, unless the context otherwise requires:

(1) "Basic training course" means the peace officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council;

(2) "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.402;

(3) "Certification" means the act by the council of issuing certification to a peace officer who successfully completes the training requirements pursuant to KRS 15.404 and the requirements set forth within this chapter;

(4) "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990, and 15.992;

(5) "Department" means the Department of Criminal Justice Training of the Justice ***and Public Safety*** Cabinet;

(6) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;

(7) "Peace officer" means a person defined in KRS 446.010;

(8) "Secretary" means the secretary of the Justice ***and Public Safety*** Cabinet; and

(9) "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 15. KRS 15.315 is amended to read as follows:

The Kentucky Law Enforcement Council is hereby established as an independent administrative body of state government to be made up as follows:

(1) The Attorney General of Kentucky, the commissioner of the Department of State Police, directors of the Southern Police Institute of the University of Louisville, the dean of the College of ***Justice and Safety***~~[Law Enforcement]~~ of Eastern Kentucky University, the president of the Kentucky Peace Officers Association, the president of the Kentucky Association of Chiefs of Police, the Kentucky president of the Fraternal Order of Police, and the president of the Kentucky Sheriffs' Association shall be ex officio members of the council, as full voting members of the council by reason of their office. The ***United States attorneys for the Eastern and Western Districts of Kentucky shall confer and designate a local law enforcement liaison who***~~[Kentucky special agent in charge of the Federal Bureau of Investigation]~~ shall serve on the council in an advisory capacity only without voting privileges. Each ex officio member may designate in writing a person to represent him or her and to vote on his or her behalf.

(2) ***Twelve (12)***~~[Eleven (11)]~~ members shall be appointed by the Governor for terms of four (4) years from the following classifications: a city manager or mayor, three (3) Kentucky sheriffs, a member of the Kentucky State Bar Association, five

(5) chiefs of police, *a county judge/executive,* and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he or she holds the office or employment by reason of which he or she was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.

(3) No member may serve on the council with the dual membership as the representative of more than one (1) of the aforementioned groups or the holder of more than one (1) of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity, the Governor shall appoint an additional member from the group concerned to prevent dual membership.

(4) Membership on the council does not constitute a public office, and no member shall be disqualified from holding public office by reason of his membership.

Section 16. KRS 15.440 is amended to read as follows:

(1) Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(a) Employs one (1) or more police officers;

(b) Pays every police officer at least the minimum federal wage;

(c) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998 shall be deemed to have met the requirements of this subsection;

(d) Requires all police officers employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least six hundred forty (640) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than six hundred forty (640) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;

(e) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;

(f) Requires compliance with all provisions of law applicable to local police, state or public university police, or sheriffs and their deputies, including transmission of data to the centralized criminal history record information system as required by KRS 17.150;[~~and~~]

(g) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office, issued by the Justice *and Public Safety* Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510; *and*

(h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that meets the standards set forth by, and has been approved by, the Justice and Public Safety Cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records.

(2) No local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department, or sheriff's office actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsection (1)(f) and (g) of this section.

(3) A sheriff's office shall not lose eligibility to share in the distribution of funds from the Law Enforcement Foundation Program fund if the sheriff does not participate in the Law Enforcement Foundation Program fund.

Section 17. KRS 15.450 is amended to read as follows:

(1) The secretary or his designated representative shall administer the Law Enforcement Foundation Program fund pursuant to the provisions of KRS 15.410 to 15.510 and may promulgate any administrative regulations as, in his judgment, are necessary to carry out his responsibilities under KRS 15.410 to 15.510. Administrative hearings promulgated by administrative regulation under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(2) The secretary or his designated representative shall determine which local units of government are eligible to share in the Law Enforcement Foundation Program fund and may withhold or terminate payments to any local unit that does not comply with the requirements of KRS 15.410 to 15.510 or the administrative regulations issued by the Justice ***and Public Safety*** Cabinet under KRS 15.410 to 15.510.

(3) The Justice ***and Public Safety*** Cabinet shall, from moneys appropriated and accruing to the fund as provided under KRS 15.430, receive reimbursement for the salaries and other costs of administering the fund, including, but not limited to, council operations and expenses.~~[The amount to be reimbursed for any given year shall be determined by the council and shall not exceed five percent (5%) of the total amount of funds for that year.]~~

(4) The Justice ***and Public Safety*** Cabinet shall furnish periodically to the council any reports as may be deemed reasonably necessary.

Section 18. KRS 15.470 is amended to read as follows:

Law Enforcement Foundation Program funds made available to local units shall be received, held, and expended in accordance with the provisions of KRS 15.410 to 15.510, including the ***administrative***~~[rules and]~~ regulations ***promulgated***~~[issued]~~ by the Justice ***and Public Safety*** Cabinet, and the following specific restrictions:

(1) Funds provided shall be used only as a cash salary supplement to police officers, for payments to the defined benefit pension plan to which the officer belongs to cover employer retirement costs on the cash salary supplement, and for administrative costs as provided in KRS 15.450;

(2) Funds provided shall be used only to compensate police officers who have complied with KRS 15.440(1)(c), (d), and (e).

(3) Each police officer shall be entitled to receive the state supplement which his qualifications brought to the local unit;

(4) Funds provided shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to police officers.

Section 19. KRS 15.480 is amended to read as follows:

The Finance and Administration Cabinet, on the certification of the Justice ***and Public Safety*** Cabinet, shall draw warrants as specified hereinafter on the State Treasurer for the amount of the Law Enforcement Foundation Program fund due each participating local unit. Checks shall be issued by the State Treasurer and transmitted to the Justice ***and Public Safety*** Cabinet for distribution to the proper officials of participating local units which have complied with the provisions of KRS 15.410 to 15.510 and the ***administrative***~~[rules and]~~ regulations of the Justice ***and Public Safety*** Cabinet. Beginning July 1, 1972, and on the first day of each month thereafter, the share of each eligible and participating local unit of government shall be distributed from the Law Enforcement Foundation Program fund.

Section 20. KRS 15.490 is amended to read as follows:

(1) Each participating local unit of government shall submit reports to the Justice ***and Public Safety*** Cabinet on March 31, June 30, September 30 and December 31 of each year containing information relative to number, rank, education, training, and compensation of police officers employed by it and the disposition made of any state or other funds received pursuant to KRS 15.410 to 15.510. Nothing in this section shall prohibit the Justice ***and Public Safety*** Cabinet from requiring additional information or reports from participating local units of government;

(2) Local units of government shall include the additional compensation paid to each police officer from the Law Enforcement Foundation Program fund as a part of the officer's salary in determining all payroll deductions.

Section 21. KRS 15.500 is amended to read as follows:

(1) If funds appropriated by the General Assembly and otherwise made available to the Law Enforcement Foundation Program fund are insufficient to provide the amount of money required by KRS 15.460, the Justice ***and Public Safety*** Cabinet shall establish the rate of assistance to be paid to eligible local units of governments.

(2) Funds unexpended by the Justice ***and Public Safety*** Cabinet at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 15.430, 42.190 and 136.392, shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in KRS 15.410 to 15.500.

Section 22. KRS 15.510 is amended to read as follows:

An appeal may be taken from any decision of the Justice ***and Public Safety*** Cabinet to withhold or terminate payment from the Law Enforcement Foundation Program fund to any local unit of government. Appeals shall be taken to the Circuit Court of the county where the controversy originates.

Section 23. KRS 15.540 is amended to read as follows:

The Justice ***and Public Safety*** Cabinet shall determine that all applicants for admission to the telecommunicator training program:

(1) Are citizens of the United States and have reached the age of majority;

(2) Hold high school diploma or the equivalent;

(3) Have not been convicted of a felony or other crimes involving moral turpitude as determined by submission of each applicant's fingerprints to the information systems section of the Department of ***Kentucky*** State Police and to the Federal Bureau of Investigation identification division, and by such other investigations as required by the applicant's place of employment; and

(4) Are free of any physical, emotional or mental condition which might adversely affect their employment performance.

Section 24. KRS 15.580 is amended to read as follows:

The Justice ***and Public Safety*** Cabinet shall maintain a roster of all certified law enforcement telecommunicators.

Section 25. KRS 15.942 is amended to read as follows:

The Justice ***and Public Safety*** Cabinet, the Attorney General, the Administrative Office of the Courts, and the Cabinet for Families and Children shall develop a training plan for investigation of child sexual abuse cases and protection of child sexual abuse victims within the Commonwealth. They may seek assistance from any educational, legal, and mental and physical health-care professionals needed for implementation of training programs.

Section 26. KRS 15.990 is amended to read as follows:

Any person who knowingly or willfully makes any false or fraudulent statement or representation in any record, report, or application to the council, department, or other agency of the Justice ***and Public Safety*** Cabinet under KRS 15.410 to 15.510 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not less than thirty (30) days nor more than ninety (90) days, or both.

Section 27. KRS 15A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Cabinet***[~~Secretary~~]" means the[~~ secretary of the~~] Justice ***and Public Safety*** Cabinet;

(2) "Commissioner" means the commissioner of the Department of Juvenile Justice;

(3) "Department" means the Department of Juvenile Justice;

(4) "Facility" means any facility operating under the authority or control of the Department of Juvenile Justice; and

(5) "***Secretary***[~~Cabinet~~]" means the ***secretary of the*** Justice ***and Public Safety*** Cabinet.

Section 28. KRS 15A.015 is amended to read as follows:

Deputy secretaries of justice ***and public safety*** shall be appointed by and directly responsible to the secretary and shall be the principal assistants and advisors to the secretary for all policies, programs and operations of the cabinet.

Section 29. KRS 15A.020 is amended to read as follows:

(1) The Justice and Public Safety Cabinet shall have the following departments:

  (a) Department of Corrections;

  (b) Department of Criminal Justice Training, which shall have the following divisions:

    1. Training Operations Division;

    2. Administrative Division; and

    3. Training Support Division;

  (c) Department of Juvenile Justice, which shall have the following divisions:

    1. Division of Medical Services;

    2. Division of Western Region;

    3. Division of Central Region;

    4. Division of Eastern Region;

    5. Division of Administrative Services;

    6. Division of Program Services; and

    7. Division of Placement Services;

  (d) Department of Kentucky Vehicle Enforcement, headed by a commissioner appointed pursuant to KRS 12.050, which shall perform functions required by KRS Chapter 281 and other state and federal laws and administrative regulations relating to commercial vehicles and vehicles for hire and which shall perform such other functions as may be assigned by the secretary;

  (e) The Department of Kentucky Vehicle Enforcement;

(f) Department of Kentucky State Police, which shall have the following divisions:

1. Administrative Division;

2. Operations Division; and

3. Technical Services Division; and

(g) Department for Public Advocacy, which shall have the following divisions:

1. Protection and Advocacy Division;

2. Division of Law Operations;

3. Division of Trial Services; and

4. Division of Post-Trial Services.

(2) Each department, except for the Department of Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of justice and public safety with the approval of the Governor as required by KRS 12.050. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department for Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission, and supported logistically by the Justice and Public Safety Cabinet.

(3) The Justice and Public Safety Cabinet shall have a division named the Communications Division, which shall be headed by a director appointed pursuant to KRS 12.050, who is responsible for all matters relating to public information and information within the cabinet.

(4) The Justice and Public Safety Cabinet shall have the following offices:

(a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050, and shall be responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

(b) Office of Management and Administrative Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who is responsible to and reports to the secretary and shall be responsible for all matters relating to human resources, fiscal functions, management, and daily administrative services for the Cabinet, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

(c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and KRS 12.210 to provide legal representation and services for the cabinet. The executive director is directly responsible to and reports to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;

(d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who is responsible for all matters relating to the provision for support to the Criminal Justice Council, legislative liaison services, management and daily operations of the information processing activities for the cabinet, functions and duties vested in the Criminal Justice Council as described in KRS 15A.040, and state and federal grants management, including but not limited to the administration of KRS 15A.060. The executive director is directly responsible to and reports to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

(e) Office of the State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

(f) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 who is responsible for all matters relating to research of, and the coordination and execution of, drug control policy for the cabinet, and for the state and federal grants management including but not limited to the prevention and treatment related to substance abuse. All matters relating to drug usage, abuse, prevention, treatment, and enforcement conducted by and funded through agencies of the executive branch shall be reviewed, approved, and coordinated through the Office of Drug Control Policy. The executive director is directly responsible to and reports to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

(g) Office of Public Safety Training, which shall be headed by an executive director appointed pursuant to KRS 12.050 who is responsible for all matters relating to the construction and operation of joint usage training facilities at the Public Safety Training Center for the cabinet. The Department of Criminal Justice Training shall provide all administrative and logistical support for this office. The executive director is responsible, and reports to the secretary, for all matters relating to the construction and operation of joint usage training

facilities at the Public Safety Training Center, and management, scheduling, maintenance, and daily operations of the Public Safety Training Center. The executive director, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office; and

(h) Office of Investigations, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the investigation of white-collar crime, waste, fraud and abuse within the cabinet, and across the executive branch, and such persons who have dealings with these areas of government. The secretary may commission employees of the office as peace officers for the purpose of enforcing state, federal, and local laws, ordinances, and administrative regulations. The executive director is directly responsible to and reports to the secretary, and with the approval of the secretary may employ such staff as necessary to perform the duties, functions, and responsibilities of the office.

[~~There is established within the cabinet a Department of State Police, a Department of Corrections, a Department of Juvenile Justice, and a Department of Criminal Justice Training. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.~~]

Section 30. KRS 15A.030 is amended to read as follows:

(1) The Justice ***and Public Safety*** Cabinet, in addition to the departments***, divisions, offices, and branches*** set forth in ***Section 29 of this Act***[~~KRS 15A.020~~], shall consist of the following organizational units[~~ which are hereby created or reestablished~~]:

(a) Kentucky State Corrections Commission, supported by the Department of Corrections;

(b) Criminal Justice Council, supported by the Office of Legislative and Intergovernmental Services;

(c) Kentucky Law Enforcement Council, supported by the Department of Criminal Justice Training; and

(d) Kentucky Parole Board, supported by the cabinet.

(2) Except for the Kentucky Parole Board, which shall be attached to the cabinet for administrative and support services only, each agency specified in this section shall:

(a) Perform its duties as specified by law;

(b) Except as otherwise provided by law, be under the general direction and control of the secretary;

(c) Perform such other duties as may be assigned to the secretary; and

(d) Report to the secretary

[~~(1) Office of the Secretary of Justice comprised of the secretary of justice, the Commission on Correction and Community Service, the Kentucky State Corrections Commission, the Office of the Criminal Justice Council, and the Criminal Justice Council. The Parole Board shall be attached to the Office of the Secretary for administrative and support purposes only.~~

~~(2) Offices of Deputy Secretaries of Justice.~~

~~(3) Office of the General Counsel.~~

~~(4) Division of Kentucky State Medical Examiners Office.~~

~~(5) Office of Management, Administrative, and Legal Services, which shall be responsible for providing information systems management, investigative services, and legal services to the Office of the Secretary. The office shall be headed by an executive director appointed by the secretary in accordance with KRS 12.050~~].

Section 31. KRS 15A.040 is amended to read as follows:

[~~(1)~~]The ***Office of the Secretary of the Justice and Public Safety Cabinet***[~~Criminal Justice Council~~] shall advise[~~ and recommend to~~] the ***secretary of the Justice and Public Safety Cabinet, the*** Governor***,*** and the General Assembly policies and direction for long-range planning regarding all elements of the criminal justice system. The ***office***[~~council~~] shall ***also***[~~review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall~~]:

(1)[~~(a)~~][~~Make recommendations to the justice secretary with respect to the~~]Award[~~ of~~] state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor[~~, the General Assembly, and the council;~~

~~(b) Conduct comprehensive planning to promote the maximum benefits of grants;~~

~~(c) Develop model criminal justice programs~~];

(2)[~~(d)~~] Disseminate information on criminal justice issues and crime trends; ***and***

[~~(e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;~~

~~(f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local~~

~~communities relating to gangs;~~]

(3)[~~(g)~~] Provide technical assistance to all criminal justice agencies[~~;~~

~~(h) Review and evaluate proposed legislation affecting criminal justice; and~~

~~(i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.~~

~~(2) Membership of the Criminal Justice Council shall consist of the following:~~

- ~~(a) The secretary of the Justice Cabinet or his designee;~~
- ~~(b) The director of the Administrative Office of the Courts or his designee;~~
- ~~(c) The Attorney General or his designee;~~
- ~~(d) Two (2) members of the House of Representatives as designated by the Speaker of the House;~~
- ~~(e) Two (2) members of the Senate as designated by the President of the Senate;~~
- ~~(f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;~~
- ~~(g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;~~
- ~~(h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;~~
- ~~(i) The public advocate or his designee;~~
- ~~(j) The president of the Kentucky Sheriffs' Association;~~
- ~~(k) The commissioner of state police or his designee;~~
- ~~(l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;~~
- ~~(m) The president of the Kentucky Association of Chiefs of Police;~~
- ~~(n) A member of the Prosecutors Advisory Council as chosen by the council;~~
- ~~(o) The Chief Justice or a justice or judge designated by him;~~
- ~~(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;~~
- ~~(q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;~~
- ~~(r) One (1) member of the Circuit Clerks' Association;~~
- ~~(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;~~
- ~~(t) One (1) District Judge, designated by the Chief Justice;~~
- ~~(u) One (1) Circuit Judge, designated by the Chief Justice;~~
- ~~(v) One (1) Court of Appeals Judge, designated by the Chief Justice;~~
- ~~(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders;~~
- ~~(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor;~~
- ~~(y) The commissioner of the Department of Juvenile Justice or his designee;~~
- ~~(z) The commissioner of the Department of Corrections, or his designee;~~
- ~~(aa) The commissioner of the Department of Criminal Justice Training or his designee; and~~
- ~~(ab) The Governor's chief information officer.~~

~~(3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.~~

~~(4) The council shall meet at least once every three (3) months.~~

~~(5) The council may hold additional meetings:~~

- ~~(a) On the call of the chairman;~~
- ~~(b) At the request of the Governor to the chairman; or~~
- ~~(c) At the written request of the members to the chairman, signed by a majority of the members.~~

~~(6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.~~

~~(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.~~

~~(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:~~

~~(a) Uniform Criminal Justice Information System committee;~~

~~(b) Committee on sentencing; and~~

~~(c) Penal Code committee.~~

~~(9) The council's administrative functions shall be]~~ performed by a full-time executive director, who shall also serve as the executive director of the office of the Criminal Justice Council, appointed by the secretary of the Justice Cabinet[~~, and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities~~].

Section 32. KRS 15A.060 is amended to read as follows:

The Office of Secretary of Justice ***and Public Safety*** shall serve as the state planning agency for purposes of compliance with the Federal Crime Control and Safe Streets Act of 1968, as amended, or subsequently adopted federal criminal justice legislation[~~, and provide staff services to the Criminal Justice Council relating to the administration of these federally supported programs~~].

Section 33. KRS 15A.065 is amended to read as follows:

(1) The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:

(a) Prevention of juvenile crime;

(b) Identification of juveniles at risk of becoming status or public offenders and development of early intervention strategies for these children, and, except for adjudicated youth, participation in prevention programs shall be voluntary;

(c) Providing educational information to law enforcement, prosecution, victims, defense attorneys, the courts, the educational community, and the public concerning juvenile crime, its prevention, detection, trial, punishment, and rehabilitation;

(d) The operation of or contracting for the operation of postadjudication treatment facilities and services for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(e) The operation or contracting for the operation, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;

(f) Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;

(g) Conducting research and comparative experiments to find the most effective means of:

1. Preventing delinquent behavior;

2. Identifying predelinquent youth;

3. Preventing predelinquent youth from becoming delinquent;

4. Assessing the needs of predelinquent and delinquent youth;

5. Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth and youthful offenders;

6. Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and

(h) Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.

(2) The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.

(3) The Department of Juvenile Justice may contract for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments. The department shall, after consultation with the Finance and Administration Cabinet, promulgate administrative regulations to govern at least the following aspects of this subsection:

(a) Bidding process; and

(b) Emergency acquisition process.

(4) The Department of Juvenile Justice shall develop programs to:

(a) Ensure that youth in state-operated or contracted residential treatment programs have access to an ombudsman to whom they may report program problems or concerns;

(b) Review all treatment programs, state-operated or contracted, for their quality and effectiveness; and

(c) Provide mental health services to committed youth according to their needs.

(5) (a) The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall serve as the advisory group under the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, as amended, and which shall provide a formulation of and recommendations for meeting the requirements of this section not less than annually to the Governor, the Justice ***and Public Safety*** Cabinet, the Department of Juvenile Justice, the Cabinet for Families and Children, the Interim Joint Committees on Judiciary and on Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and the Appropriations and Revenue Committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion, and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. The advisory board shall review grant applications from local juvenile delinquency prevention councils and include in its annual report the activities of the councils. The advisory board shall meet not less than quarterly.

(b) The advisory board shall be chaired by a private citizen member appointed by the Governor and shall serve a term of two (2) years and thereafter be elected by the board. The members of the board shall be appointed to staggered terms and thereafter to four (4) year terms. The membership of the advisory board shall consist of no fewer than fifteen (15) persons and no more than thirty-three (33) persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice. A majority of the members shall not be full-time employees of any federal, state, or local government, and at least one-fifth (1/5) of the members shall be under the age of twenty-four (24) years at the time of appointment. On July 15, 2002, any pre-existing appointment of a member to the Juvenile Justice Advisory Board and the Juvenile Justice Advisory Committee shall be terminated unless that member has been re-appointed subsequent to January 1, 2002, in which case that member's appointment shall continue without interruption. The membership of the board shall include the following:

1. Three (3) current or former participants in the juvenile justice system;
2. An employee of the Department of Juvenile Justice;
3. An employee of the Cabinet for Families and Children;
4. A person operating alternative detention programs;
5. An employee of the Department of Education;
6. An employee of the Department of Public Advocacy;
7. An employee of the Administrative Office of the Courts;
8. A representative from a private nonprofit organization with an interest in youth services;
9. A representative from a local juvenile delinquency prevention council;
10. A member of the Circuit Judges Association;
11. A member of the District Judges Association;
12. A member of the County Attorneys Association;
13. A member of the County Judge/Executives Association;
14. A person from the business community not associated with any other group listed in this paragraph;
15. A parent not associated with any other group listed in this paragraph;
16. A youth advocate not associated with any other group listed in this paragraph;
17. A victim of a crime committed by a person under the age of eighteen (18) not associated with any other group listed in this paragraph;
18. A local school district special education administrator not associated with any other group listed in this paragraph;
19. A peace officer not associated with any other group listed in this paragraph; and
20. A college or university professor specializing in law, criminology, corrections, psychology, or similar discipline with an interest in juvenile corrections programs.

(c) Failure of any member to attend three (3) meetings within a calendar year shall be deemed a resignation from the board. The board chair shall notify the Governor of any vacancy and submit recommendations for appointment.

(6) The Department of Juvenile Justice shall, in cooperation with the Department of Public Advocacy, develop a program of legal services for juveniles committed to the department who are placed in state-operated residential treatment facilities and juveniles in the physical custody of the department who are detained in a state-operated detention facility, who have legal claims related to the conditions of their confinement involving violations of federal or state statutory or constitutional rights. This system may utilize technology to supplement personal contact. The Department of Juvenile Justice shall

promulgate an administrative regulation to govern at least the following aspects of this subsection:

(a) Facility access;

(b) Scheduling; and

(c) Access to residents' records.

(7) The Department of Juvenile Justice may, if space is available and conditioned upon the department's ability to regain that space as needed, contract with another state or federal agency to provide services to youth of that agency.

Section 34. KRS 15A.090 is amended to read as follows:

The secretary shall establish the internal organization of the cabinet not ***otherwise*** established ***by the Governor or the General Assembly***~~[in 1974 Acts, Chapter 74]~~ and shall organize the cabinet into such organizational units as the secretary deems necessary to perform the functions, powers and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 35. KRS 15A.150 is amended to read as follows:

Except as otherwise provided by law, the ***Justice and Public Safety*** Cabinet shall administer all state programs and all state and federally funded grant programs related to criminal justice.

Section 36. KRS 15A.160 is amended to read as follows:

The secretary ***of justice and public safety*** may promulgate administrative regulations in accordance with KRS Chapter 13A ***and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet***.

Section 37. KRS 15A.190 is amended to read as follows:

(1) The Justice ***and Public Safety*** Cabinet in consultation with the Cabinet for Families and Children, the Kentucky Commission on Women, and any other agency concerned with particular acts of criminal activity, shall design, print, and distribute to all law enforcement agencies in the Commonwealth, a uniform reporting form which provides statistical information relating to the crimes involving domestic violence, child abuse, victimization of the elderly, or any other particular area of criminal activity deemed by the secretary of justice to require research as to its frequency.

(2) The provision of subsection (1) of this section concerning the distribution of forms shall become effective on January 1, 1979.

Section 38. KRS 15A.195 is amended to read as follows:

(1) No state law enforcement agency or official shall stop, detain, or search any person when such action is solely motivated by consideration of race, color, or ethnicity, and the action would constitute a violation of the civil rights of the person.

(2) The secretary of the Justice ***and Public Safety*** Cabinet, in consultation with the Kentucky Law Enforcement Council, the Attorney General, the ***Department***~~[Office]~~ of Criminal Justice Training, the secretary of the Transportation Cabinet, the ***Department of*** Kentucky State Police, ***and*** the secretary of the~~[Natural Resources and]~~ Environmental ***and Public*** Protection Cabinet,~~[and the secretary of the Public Protection and Regulation Cabinet,]~~ shall design and implement a model policy to prohibit racial profiling by state law enforcement agencies and officials.

(3) The Kentucky Law Enforcement Council shall disseminate the established model policy against racial profiling to all sheriffs and local law enforcement officials, including local police departments, city councils, and fiscal courts. All local law enforcement agencies and sheriffs' departments are urged to implement a written policy against racial profiling or adopt the model policy against racial profiling as established by the secretary of the Justice ***and Public Safety*** Cabinet within one hundred eighty (180) days of dissemination of the model policy. A copy of any implemented or adopted policy against racial profiling shall be filed with the Kentucky Law Enforcement Council and the Kentucky Law Enforcement Foundation Program Fund.

(4) (a) Each local law enforcement agency that participates in the Kentucky Law Enforcement Foundation Program fund under KRS 15.420 in the Commonwealth shall implement a policy, banning the practice of racial profiling, that meets or exceeds the requirements of the model policy disseminated under subsection (3) of this section. The local law enforcement agency's policy shall be submitted by the local law enforcement agency to the secretary of the Justice ***and Public Safety*** Cabinet within one hundred eighty (180) days of dissemination of the model policy by the Kentucky Law Enforcement Council under subsection (3) of this section. If the local law enforcement agency fails to submit its policy within one hundred eighty (180) days of dissemination of the model policy, or the secretary rejects a policy submitted within the one hundred and eighty (180) days, that agency shall not receive Kentucky Law Enforcement Foundation Program funding until the secretary approves a policy submitted by the agency.

(b) If the secretary of the Justice ***and Public Safety*** Cabinet approves a local law enforcement agency's policy, the agency shall not change its policy without obtaining approval of the new policy from the secretary of the Justice ***and Public Safety*** Cabinet. If the agency changes its policy without obtaining the secretary's approval, the agency shall not receive Kentucky Law Enforcement Foundation Program funding until the secretary approves a policy submitted by the agency.

(5) Each local law enforcement agency shall adopt an administrative action for officers found not in compliance with the agency's policy. The administrative action shall be in accordance with other penalties enforced by the agency's

administration for similar officer misconduct.

Section 39. KRS 15A.197 is amended to read as follows:

The Justice ***and Public Safety*** Cabinet and its agencies may provide state personnel, state property, and other state resources to Trooper Island Incorporated.

Section 40. KRS 15A.310 is amended to read as follows:

(1) The Department of Juvenile Justice, the Cabinet for Health Services, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements for juveniles that are needed for the development of the centralized criminal history record information system.

(2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.

(3) The Department of Juvenile Justice shall provide access to Commonwealth's attorneys, county attorneys, law enforcement agencies, the ***Department of*** Kentucky State Police, the Department of Corrections, the Cabinet for Health Services, and the Administrative Office of the Courts to its database.

Section 41. KRS 16.010 is amended to read as follows:

As used in KRS 16.030 to 16.170, unless the context requires otherwise:

(1) "Cabinet" means the Justice ***and Public Safety*** Cabinet;

(2) "Secretary" means the secretary of justice ***and public safety***;

(3) "Commissioner" means the commissioner of the Department of ***Kentucky*** State Police;

(4) "Officer" means any member of the ***Department of*** Kentucky State Police who possesses the powers of a peace officer;

(5) "Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;

(6) "Board" means the ***Department of Kentucky*** State Police Personnel Board; and

(7) "Department" means the Department of ***Kentucky*** State Police.

Section 42. KRS 16.080 is amended to read as follows:

(1) The commissioner shall ***promulgate administrative***[~~adopt, formulate, alter, and repeal rules and~~] regulations for the enlistment, training, discipline, and conduct of officers of the department and he may ***promulgate administrative***[~~make any other rules and~~] regulations for the governing and operation of the department as appear to him reasonably necessary to carry out the provisions of KRS 16.010 to 16.170.

(2) The commissioner may require any officer or civilian who receives or disburses public funds in the course of his duties to file a bond, conditioned that he will honestly, correctly, and according to law, receive, disburse, and account for all public moneys coming into his hands. The commissioner and each officer shall execute a bond to the Commonwealth[~~ of Kentucky~~] in the sum of not less than two thousand dollars ($2,000), conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid by the department. The commissioner and each officer of the department shall, before entering upon the discharge of their official duties, take the constitutional oath of office.

(3) Subject to the provisions of KRS 56.440 to 56.550, the commissioner, with the approval of the Governor and the secretary of the Finance and Administration Cabinet, may acquire real estate or interests therein, by purchase, lease, or otherwise, necessary for the purposes of the department, and, with like approval, provide for the acquisition or construction of necessary buildings and other permanent structures and facilities. Title to any real estate acquired shall be taken in the name of the Commonwealth.

Section 43. KRS 16.090 is amended to read as follows:

The commissioner is authorized to organize and maintain a training school or schools for officers of the department, and in connection therewith to provide by ***administrative*** regulation the course and conduct of such training and the period of time for which any officer, or any applicant therefor, shall attend such school. The commissioner, under such ***administrative*** regulations as he may ***promulgate***[~~adopt~~], is further authorized, but shall not be required, to make such training facilities available to any local governing unit within this Commonwealth.

Section 44. KRS 16.095 is amended to read as follows:

(1) The Justice ***and Public Safety*** Cabinet shall require all officers employed by them to complete an educational course approved by the Cabinet for Health Services on human immunodeficiency virus infection and acquired immunodeficiency syndrome. The Justice ***and Public Safety*** Cabinet shall develop literature on the human immunodeficiency virus infection and acquired immunodeficiency syndrome and a training curriculum of not more than four (4) hours for the instruction of officers. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. This training may be part of any other training required and for which law enforcement officers receive an allowance to attend. However, nonreceipt of allowance does not exclude a law enforcement officer from the training required in this section.

(2) All officers shall successfully complete the training required. Any person holding the position of officer shall not exercise that position for more than one (1) year without successfully completing the required training. If an officer does not successfully complete the required training within the time specified, he shall be suspended from further service as an

officer until he successfully completes the required training.

Section 45. KRS 16.543 is amended to read as follows:

(1) Employee contributions shall be deducted from the creditable compensation of each member of the retirement system in the active employment of the Department of ***Kentucky*** State Police of the Justice ***and Public Safety*** Cabinet as an officer as defined in KRS 16.520. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 16.545(4). Service credit shall be allowed for each month such member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Contributions shall not be made and no service will be earned while on authorized leave except:

(a) A member shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave, approved by the Personnel Cabinet, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions or such contributions shall be picked up in accordance with KRS 16.545 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(3) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 16.560.

Section 46. KRS 17.110 is amended to read as follows:

(1) All city and county law enforcement agencies shall cause a photograph, a set of fingerprints, and a general description report of all persons arrested on a felony charge to be made and two (2) copies of each item forwarded within thirty (30) days after the arrest to the Department of ***Kentucky*** State Police of the Justice ***and Public Safety*** Cabinet, in accordance with ***administrative*** regulations of the Justice ***and Public Safety*** Cabinet. Unless the charges are dismissed or withdrawn at that appearance, the judge shall require any adult person appearing before any Circuit Court in the Commonwealth on a felony charge, who has not been arrested, to, if this has not already been done in the case before the court, be photographed and fingerprinted, and have a general description made following his arraignment. Agencies specified above shall furnish any other information involving offenses or in their possession relative to law enforcement upon request by the Justice ***and Public Safety*** Cabinet.

(2) Each city and county law enforcement agency shall advise the Department of ***Kentucky*** State Police of the disposition made of all cases wherein a person has been charged with an offense.

Section 47. KRS 17.115 is amended to read as follows:

(1) The Justice ***and Public Safety*** Cabinet shall:

(a) Receive and file fingerprints, photographs, and other records pertaining to the investigation of crime and the apprehension of criminals; and

(b) Cooperate with the state, county, and city law enforcing agencies of other states and of the United States in order to develop and carry on an interstate and national system of criminal identification.

(2) Persons in charge of any penal or correctional institution in the state, and all state law enforcement and peace officers operating identification facilities shall cooperate in providing the cabinet with fingerprints and descriptions of all persons lawfully committed to their custody or detained by them in cases where fingerprints and descriptions are taken, together with a report of the disposition of all cases of such persons.

Section 48. KRS 17.120 is amended to read as follows:

The Justice ***and Public Safety*** Cabinet shall forward one (1) copy of each photograph, set of fingerprints and general description report received by it ***in a criminal case*** to the Federal Bureau of Investigation.

Section 49. KRS 17.125 is amended to read as follows:

(1) The following agencies shall, subject to restrictions imposed by state or federal law, disclose and share with each other all information they maintain on a juvenile in a facility or program or informal adjustment authorized by law:

(a) All sheriff's offices, police departments, and any other law enforcement agency;

(b) All Commonwealth's attorneys and county attorneys;

(c) The Attorney General;

(d) All jails and juvenile detention facilities, public and private;

(e) All courts and clerks of courts;

(f) The Administrative Office of the Courts;

(g) All departments within the Justice ***and Public Safety*** Cabinet; and

(h) All departments within the Cabinet for Families and Children and the Cabinet for Health Services.

(2) Except as provided in this section, all information shared by agencies specified above shall be subject to applicable confidentiality disclosure, redisclosure, and access restrictions imposed by federal or state law.

(3) All public or private elementary or secondary schools, vocational or business schools, or institutions of higher education shall provide all records specifically requested in writing, and pertaining to status offenders, public offenders, youthful offenders, juveniles remanded to detention, and any juvenile convicted by a court, to any of the agencies listed in subsection (1) of this section. The records or information provided pursuant to this subsection shall be subject to:

(a) Access or other restrictions imposed by federal or state law;

(b) All confidentiality restrictions imposed by federal or state law; and

(c) All disclosure and redisclosure restrictions imposed by federal or state law.

(4) Any request for records, the provision of records, the sharing of records, the disclosure of records, or the redisclosure of records shall be done for official purposes only, on a bona fide need to know basis, and only in connection with a legitimate investigation, prosecution, treatment program, or educational program.

(5) Information and records relating to pending litigation in Circuit Court, District Court, or a federal court and information and records relating to an ongoing investigation are not subject to disclosure or sharing under this section.

(6) Obtaining or attempting to obtain a record relating to a minor or by sharing or attempting to share a record relating to a minor with an unauthorized person is a violation of this section.

Section 50. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies and the ***court of Justice***[~~courts~~]. Notwithstanding any statutes, administrative regulations, ***court rules,*** and policies to the contrary, if standards and technologies other than those set by the ***Commonwealth***[~~Governor's~~] Office for Technology are required, the Commonwealth's ***commissioner of technology***[~~chief information officer~~] shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice ***and Public Safety*** Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the ***secretary of the Justice and Public Safety Cabinet in consultation with the commissioner of technology for the Commonwealth and the Administrative Office of the Courts***[~~Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the Governor's chief information officer, who shall chair the committee~~].

(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4)[~~ The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.~~

~~(5)~~] The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.

[~~(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.~~

~~(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.~~]

(5)[~~(8)~~] All criminal justice agencies ***and the Court of Justice*** shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(6)[~~(9)~~] The ***commissioner of Technology of the Commonwealth***[~~committee~~] shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the ***secretary of the Justice***

and Public Safety Cabinet, in consultation with the Commonwealth's commissioner of Technology[~~committee~~].

(7)[~~(10)~~] Any future state-funded expenditures by a criminal justice agency ***or the Court of Justice*** for computer platforms in support of criminal justice applications shall be reviewed by the ***Commonwealth's commissioner of Technology***[~~committee~~].

(8) As part of the unified criminal justice information system, the secretary of the Justice and Public Safety Cabinet, in consultation with the Commonwealth's commissioner of technology of the Commonwealth and the Administrative Office of the Courts, shall design and implement an automated warrant system. The automated warrant system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.

(9)[~~(11)~~] Any criminal justice agency or ***agency in the Court of Justice***[~~officer~~] that does not participate in the ***unified*** criminal justice information system may be denied access to state and federal grant funds.

Section 51. KRS 17.140 is amended to read as follows:

(1) A centralized criminal history record information system shall be established in the Justice ***and Public Safety*** Cabinet under the direction, control and supervision of the commissioner of the Department of ***Kentucky*** State Police.

(2) A centralized criminal history records information system means the system including equipment, facilities, procedures, and agreements for the collection, processing, preservation or dissemination of criminal history records maintained by the Justice Cabinet.

Section 52. KRS 17.148 is amended to read as follows:

(1) The Justice ***and Public Safety*** Cabinet, Department of ***Kentucky*** State Police, shall:

(a) Coordinate all efforts of the state's various departments and agencies to promote traffic safety and make recommendations regarding the prevention of unnecessary duplications of these efforts; and

(b) Cooperate with all organizations, public or private, in the encouragement and promotion of traffic safety education in all forms; and

(c) Receive, control and expend, in accordance with the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies, grants and funds from either public or private sources.

(2) There are hereby transferred to and vested in the Department of ***Kentucky*** State Police all functions, powers, duties, funds, personnel, equipment and supplies relating to the administration of the National Highway Safety Act of 1966 in Kentucky, which responsibility and authority have been conferred upon the Transportation Cabinet.

Section 53. KRS 17.150 is amended to read as follows:

(1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital, or institution for the retarded; ***Department of Kentucky*** State Police, state fire marshal, Board of Alcoholic Beverage Control; Cabinet for Health Services; Cabinet for Families and Children; Transportation Cabinet; Department of Corrections; Department of Juvenile Justice; and every other person or criminal justice agency, except the Court of Justice, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:

(a) Install and maintain records needed for reporting data required by the cabinet;

(b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal the juvenile's or the juvenile's parents' identity;

(c) Give the cabinet or its accredited agent access for purpose of inspection; and

(d) Cooperate with the cabinet to the end that its duties may be properly performed.

(2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:

(a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;

(b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;

(c) Information which may endanger the life or physical safety of law enforcement personnel; or

(d) Information contained in the records to be used in a prospective law enforcement action.

(3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.

(4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice ***and Public Safety*** Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or

other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision, and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice ***and Public Safety*** Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

(5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.

(6) The secretary of justice ***and public safety*** shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of ***Kentucky*** State Police.

(7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice ***and public safety***, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice ***and public safety***.

Section 54. KRS 17.1523 is amended to read as follows:

(1) The uniform offense report shall contain provisions for obtaining information as to whether or not specific crimes appear from their facts and circumstances to be caused as a result of or reasonably related to race, color, religion, sex, or national origin.

(2) All law enforcement officers, when completing a uniform offense report, shall note thereon whether or not the offense appears to be caused as a result of or reasonably related to race, color, religion, sex, or national origin or attempts to victimize or intimidate another due to any of the foregoing causes.

(3) The Justice ***and Public Safety*** Cabinet shall, annually, as a part of the crime reports report on crimes which appear to have been caused by the factors cited in subsections (1) and (2) of this section.

Section 55. KRS 17.160 is amended to read as follows:

(1) Notwithstanding any other provision of law, an employer may request from the Justice Cabinet or the Administrative Office of the Courts, or both, records of all available convictions involving any felony offense, any misdemeanor offense in KRS Chapter 531 or KRS Chapter 510, any misdemeanor offense under KRS Chapter 218A committed within the five (5) years immediately preceding the application, or any conviction for violating KRS Chapter 189A committed within the five (5) years immediately preceding the application of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The cabinet or the Administrative Office of the Courts, as appropriate, shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(2) Any request for records under subsection (1) of this section shall be on a form approved by the cabinet and the Administrative Office of the Courts. No fee shall be charged to the employer or to the person whose records were requested if funding for the record checks provided for in this section is provided through some other mechanism; otherwise the cabinet or the Administrative Office of the Courts may charge a fee to be paid by the organization making the request, not to exceed the actual cost of processing the request.

(3) The cabinet and the Administrative Office of the Courts shall ***promulgate***~~[adopt]~~ administrative regulations to implement the provisions of this section.~~[No administrative regulation shall be adopted requiring or authorizing the fingerprinting of applicants.]~~

(4) As used in this section "employer" means any organization chartered by the Congress of the United States or specified by the Attorney General which employs or uses the services of volunteers or paid employees in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children. An organization which has an administrative office with paid personnel which has jurisdiction over suborganizations in one (1) or more counties shall make application for record checks through the administrative office of the organization and not through each individual suborganization.

(5) Offenses which may be searched for under this section are ones involving any conviction, plea of guilty, or Alford plea, to any offense specified in subsection (1) of this section or the attempted violation of any offense specified in subsection (1) of this section. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a crime if such offense would have been a crime in Kentucky under subsection (1) of this section if committed in Kentucky.

Section 56. KRS 17.165 is amended to read as follows:

(1) As used in this section, "sex crime" means a conviction or a plea of guilty for a violation or attempted violation of KRS 510.040 to 510.140, 529.020 to 529.050, 530.020, 530.065, 531.310, 531.320, and 531.340 to 531.370. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

(2) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(3) As used in this section, "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(4) No child-care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, or direct contact with a minor, any person who is a violent offender or has been convicted of a sex crime. Each child-care center shall request all conviction information for any applicant for employment from the Justice ***and Public Safety*** Cabinet or the Administrative Office of the Courts prior to employing the applicant.

(5) No child-care provider that is required to be certified under KRS 199.8982 or that receives a public child-care subsidy administered by the cabinet or an adult who resides on the premises of the child-care provider and has direct contact with a minor shall have been convicted of a violent crime, or a sex crime, or have been found by the Cabinet for Families and Children or a court to have abused or neglected a child.

(6) Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(7) Any request for records under subsection (4) of this section shall be on a form approved by the Justice ***and Public Safety*** Cabinet or the Administrative Office of the Courts, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(8) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988.

Section 57. KRS 17.167 is amended to read as follows:

(1) As used in this section, "felony offender" means any person who has been convicted of, entered an Alford plea to, or pleaded guilty to the commission of a capital offense or a felony.

(2) Any paid or volunteer fire department certified by the Commission on Fire Protection Personnel Standards and Education, ambulance service licensed by the Commonwealth of Kentucky, or rescue squad officially affiliated with a local disaster and emergency services organization or with the Division of Emergency Management may apply to the Justice ***and Public Safety*** Cabinet or the Administrative Office of the Courts for a felony offender record check on applicants for employment or membership with the fire department, ambulance service, or rescue squad.

(3) Each application form, provided by a fire department, ambulance service, or rescue squad to an applicant for employment or membership, shall conspicuously state the following: "FOR EMPLOYMENT WITH OR MEMBERSHIP WITH A FIRE DEPARTMENT, AMBULANCE SERVICE, OR RESCUE SQUAD, STATE LAW PERMITS A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT OR MEMBERSHIP."

(4) Any request for records under this section shall be on a form approved by the Justice ***and Public Safety*** Cabinet or the Administrative Office of the Courts. The Justice ***and Public Safety*** Cabinet and the Administrative Office of the Courts shall not charge a fee for making record checks.

Section 58. KRS 17.177 is amended to read as follows:

(1) KRS 17.171, 17.172, 17.173, 17.174, 17.176, 422.285, 422.287, and 524.140, and the amendments to KRS 17.170 and 17.175 contained in 2002 Ky. Acts ch. 154, secs. 4 and 9, shall become effective on July 15, 2002.

(2) Implementation of KRS 17.176, 422.285, 422.287, and 524.140, and of KRS 17.170 as amended by 2002 Ky. Acts ch. 154, sec. 4, shall occur on July 15, 2002; however, actual compliance with the provisions of KRS 17.171, 17.172, 17.173, and 17.174, and of KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, may be delayed until funding is available for their full implementation.

(3) As funding becomes available, KRS 17.171, 17.172, 17.173, and 17.174, and KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, shall be implemented in their numerical order. As a section is implemented, the Reviser of Statutes shall be notified by the secretary of justice ***and public safety***, in writing, as to the date of implementation. DNA sample collection and testing shall apply to any person meeting the criteria of KRS 17.171, 17.172, 17.173, or 17.174, or KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, as of July 15, 2002, and not the date of implementation of the testing.

(4) Once implementation of a provision of KRS 17.171, 17.172, 17.173, or 17.174, or of KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, is begun it shall not be discontinued.

Section 59. KRS 17.450 is amended to read as follows:

(1) The Justice ***and Public Safety*** Cabinet shall establish within the cabinet a "Kentucky Missing Child Information Center", which shall serve as a central repository of and clearinghouse for information about Kentucky children believed to be missing and children from other states believed to be missing in Kentucky.

(2) The cabinet shall provide the Missing Child Information Center with computer equipment and a computer program which shall list and be capable of immediately retrieving the name and complete description of any missing Kentucky child

referred to in subsection (1) of this section.

(3) The cabinet shall design the computer program so as to accept and generate complete information on a missing child, which information shall be retrievable by the child's name and date of birth, social security number, fingerprint classification, any number of physical descriptions, including hair and eye color and body marks, and known associates and locations.

(4) Only law enforcement agencies shall be authorized to order missing child information entered into or retrieved from the missing child information center computer, except that a parent or guardian may order from the State Police information on his or her child to be entered or retrieved when another law enforcement agency has refused to enter or retrieve such missing child information.

(5) The cabinet, through the Kentucky Missing Child Information Center, shall regularly issue flyers containing physical and situational descriptions of missing children when requested by a law enforcement agency or when determined by the cabinet.

(6) For purposes of this section, child shall mean any person under eighteen (18) years of age or any person certified or known to be mentally incompetent or disabled.

(7) A complete written report shall be issued annually by the cabinet, which report shall include statistical information on the numbers of missing children entered on the computer and located and recommendations for more accurate and timely reports and better usage of the computer.

(8) The cabinet may issue regulations in conformance with this section which provide for the orderly receipt of missing child information and requests for retrieval of missing child information.

(9) The Kentucky State Police and each city, county, and urban-county police department and each sheriff's office shall fingerprint children without charge on forms provided by the cabinet. The completed fingerprint forms shall be delivered to the child's parent or guardian and no copy of the fingerprint form shall be retained by the police department or sheriff's office.

Section 60. KRS 17.460 is amended to read as follows:

(1) Upon notification by a parent, guardian, person exercising custodial control or supervision, or the authorized representative of the Department for Community Based Services of the Cabinet for Families and Children if the child is a ward of the state, that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the Justice Cabinet which shall include information the Justice ***and Public Safety*** Cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location, and known associates.

(2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky Missing Child Information Center computer and shall cause the report to be entered into the National Crime Information Center computer.

(3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.

(4) (a) Upon location of the missing child and verification of the National Crime Information Center entry, the law enforcement agency shall transport the child to the parent, guardian, or person exercising custodial control or supervision.

(b) If the child is a ward of the state, the law enforcement agency shall transport the child to the authorized representative of the Department for Community Based Services of the Cabinet for Families and Children in the jurisdiction of the law enforcement agency.

(c) If the law enforcement agency is unable to return the child to the appropriate caretaker pursuant to paragraph (a) of this subsection, the law enforcement agency shall contact the court-designated worker with jurisdiction for placement determination.

(d) If the child is in custody on a charge of committing an offense pursuant to KRS Chapters 600 to 645, the law enforcement agency shall proceed according to the provisions therein.

(5) Within twenty-four (24) hours after a missing child is located and returned to the appropriate caretaker pursuant to subsection (4) of this section, the law enforcement agency which transported, found, or returned the missing child shall notify both the Missing Child Information Center and the National Crime Information Center of that fact.

Section 61. KRS 17.497 is amended to read as follows:

The following shall be immune from suit for good faith conduct under KRS 17.500 to 17.540 and KRS 17.550 to 17.991:

(1) Law enforcement agencies including the Justice ***and Public Safety*** Cabinet;

(2) Independent contractors acting under the direction of law enforcement agencies;

(3) State and county officials;

(4) Approved providers, as defined under KRS 17.550; and

(5) Employees of any of the agencies, entities, and persons identified in subsections (1), (2), (3), and (4) of this section.

Section 62. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.540:

(1) "Cabinet" means the Justice ***and Public Safety*** Cabinet.

(2) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:

1. Kidnapping, as set forth in KRS 509.040, except by a parent;

2. Unlawful confinement, as set forth in KRS 509.020, except by a parent;

3. Sex crime;

4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;

5. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);

6. Use of a minor in a sexual performance, as set forth in KRS 531.310;

7. Sexual abuse, as set forth in KRS 510.120 and 510.130;

8. Any attempt to commit any of the offenses described in subparagraphs 1. to 7. of this paragraph; and

9. Solicitation to commit any of the offenses described in subparagraphs 1. to 7. of this paragraph.

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense.

(3) "Law enforcement agency" means any lawfully organized investigative agency, police unit, or police force of federal, state, county, city, metropolitan government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws.

(4) "Registrant" means:

(a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:

1. A sex crime; or

2. A criminal offense against a victim who is a minor; or

(b) Any person required to register under KRS 17.510(6) or (7); or

(c) Any sexually violent predator.

(5) "Registrant information" means the name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants.

(6) "Sex crime" means:

(a) A felony offense defined in KRS Chapter 510, KRS 530.020, 530.064, 531.310, or 531.320;

(b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection.

(7) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme.

Section 63. KRS 17.510 is amended to read as follows:

(1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.

(2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.

(3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing and by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, ***Department of*** Kentucky State Police,

Frankfort, Kentucky 40601.

(4) The court or the official shall order the person to:

(a) Register with the appropriate local probation and parole office; and

(b) Report to a local detention facility within forty-eight (48) hours. The facility shall obtain the person's fingerprints under KRS 441.046 and the person's photograph. The local detention facility shall send the fingerprints and the photograph to the Information Services Center, ***Department of*** Kentucky State Police, Frankfort, Kentucky 40601.

(5) (a) The appropriate probation and parole office shall send the registration form containing the registrant information as well as any special conditions imposed by the court or the Parole Board, to the Information Services Center, ***Department of*** Kentucky State Police, Frankfort, Kentucky 40601.

(b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.

(c) Any employee of the Justice ***and Public Safety*** Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.

(6) Any person who has been convicted in a court of another state or territory, a court of the United States, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, shall be informed at the time of his or her relocation to Kentucky of the duty to register under this section, and to comply with the requirements of subsection (4)(b) of this section, by the interstate compact officer of the Department of Corrections or the Department of Juvenile Justice. The officer shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained. The officer shall order the person to complete the registration form, and the officer shall facilitate the registration process. The officer shall then send the form, including any special conditions imposed by the court or the Parole Board in the state of conviction to the Information Services Center, ***Department of*** Kentucky State Police, Frankfort, Kentucky 40601, and to the appropriate local probation and parole office in the county of the registrant's residence.

(7) If a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section and the requirements of subsection (4)(b) of this section and shall register with the appropriate local probation and parole office in the county of employment, vocation, or schooling. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

(8) The registration form shall be a written statement signed by the person which shall include registrant information.

(9) For purposes of this section and KRS 17.550 to 17.991, a post office box number shall not be considered an address.

(10) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.

(b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.

2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) days after the date of the change of address.

(c) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.

2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section.

(11) Any person required to register under this section who violates any of the provisions of this section is guilty of a Class D felony.

(12) Any person required to register under this section who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony.

(13) (a) The Justice ***and Public Safety*** Cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS

17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the Justice ***and Public Safety*** Cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under subsection (10)(a) and (b) of this section, the Justice ***and Public Safety*** Cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as set forth under subsection (5) of this section. The Justice Cabinet shall also notify the appropriate court, Parole Board, and appropriate corrections agency.

(b) When the appropriate court, Parole Board, or appropriate corrections agency receives notice from the Justice ***and Public Safety*** Cabinet, or any other source, that a person has failed to comply with any of the registration requirements under this section, then the court, Parole Board, or corrections agency:

1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and
2. Shall notify the appropriate county attorney ***or Commonwealth's attorney*** for prosecution.

Section 64. KRS 17.520 is amended to read as follows:

(1) A registrant, upon his or her release by the court, the Parole Board, the cabinet, or any detention facility, shall be required to register for a period of time under this section.

(2) (a) Lifetime registration is required for:

1. Any person who has been convicted of kidnapping, as set forth in KRS 509.040, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
2. Any person who has been convicted of unlawful confinement, as set forth in KRS 509.020, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
3. Any person convicted of a sex crime:
   a. Who has one (1) or more prior convictions of a criminal offense against a victim who is a minor; or
   b. Who has one (1) or more prior sex crime convictions;
4. Any person who has been convicted of two (2) or more criminal offenses against a victim who is a minor;
5. Any person who has been convicted of:
   a. Rape in the first degree under KRS 510.040; or
   b. Sodomy in the first degree under KRS 510.070; and
6. Any sexually violent predator.

(3) All other registrants are required to register for ten (10) years following discharge from confinement or ten (10) years following the maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.

(4) If a person required to register under this section is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements are tolled during the reincarceration.

(5) An offender who has pled guilty or been convicted in a court of another state or territory, in a court of the United States, or in a court-martial of the United States Armed Forces who is required to register in Kentucky shall be subject to registration in Kentucky based on the conviction in the foreign jurisdiction. The Justice ***and Public Safety*** Cabinet shall promulgate administrative regulations to carry out the provisions of this subsection.

(6) The court shall designate the registration period as mandated by this section in its judgment and shall cause a copy of its judgment to be mailed to the Information Services Center, ***Department of*** Kentucky State Police, Frankfort, Kentucky 40601.

Section 65. KRS 17.580 is amended to read as follows:

(1) The ***Department of*** Kentucky State Police shall establish a web site available to the public. The web site shall display:

(a) The registrant information, except for information that identifies a victim, fingerprints, and Social Security numbers, obtained by the Information Services Center, ***Department of*** Kentucky State Police, under KRS 17.510; and

(b) The sex offender information, except for information that identifies a victim, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, ***Department of*** Kentucky State Police, under KRS 17.510 prior to April 11, 2000.

The web site shall be updated every day except for Saturdays, Sundays, and state holidays.

(2) The information pertaining to an individual shall be maintained on the web site so long as that individual is registered in accordance with KRS 17.500 to 17.540.

(3) The following language shall be prominently displayed on the web site: "UNDER KRS 525.070 AND 525.080, USE OF

INFORMATION OBTAINED FROM THIS WEB SITE TO HARASS A PERSON IDENTIFIED ON THIS WEB SITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEB SITE."

(4) (a) Any ***Department of*** Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.

(b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the ***Department of*** Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.

(5) The Justice ***and Public Safety*** Cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the web site created in this section and the location of public access to the web site in the county where the person resides.

Section 66. KRS 18A.095 is amended to read as follows:

(1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of ***Section 134 of this Act***[~~KRS 281.770~~].

(b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of ***Sections 135 and 136 of this Act***[~~KRS 281.771 and 281.772~~].

(2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the intent to dismiss is based;
3. The date, time, and place of such action or activity; and
4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(4) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.

(7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for this action, including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the dismissal or other penalization is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved;

(c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.

(9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension, or other penalization;

(b) The effective date of the demotion, suspension, or other penalization;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the demotion, suspension, or other penalization is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved; and

(d) That he has the right to appeal to the board within sixty (60) days, excluding the day that he received notification.

(10) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(11) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:

1. The reallocation; and
2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification;

(b) He shall be provided with a form prescribed by the secretary on which to request reconsideration; and

(c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.

(12) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(13) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(14) When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.

(15) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(16) An evaluation may be appealed to the board if an employee has complied with the review procedure established in KRS 18A.110(7)(j).

(17) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms;

(b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;

(c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.

(18) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

(19) (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;

(b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

(20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(21) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(22) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

(23) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;

(d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

(24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.

(25) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

(26) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(27) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

(28) For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

(29) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board

within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

Section 67. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) ***Department of Kentucky*** State Police troopers~~[and sworn officers]~~ in the Department of ***Kentucky*** State Police~~[, Justice Cabinet]~~;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky Horse Racing Authority;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education;

(aa) Chief information officer of the Commonwealth;

(ab) Employees of the Kentucky Commission on Community Volunteerism and Service; and

(ac) Federally funded time-limited employees as defined in KRS 18A.005.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

(7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

(8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

Section 68. KRS 27A.080 is amended to read as follows:

(1) The Administrative Office of the Courts shall be the primary repository of court records of juveniles charged with, arrested for, and against whom complaints have been filed, involving status offenses, public offenses, and youthful offender proceedings, together with all court records of the handling and disposition of those cases, and shall keep and maintain these records.

(2) The Administrative Office of the Courts shall make juvenile records available to the agencies and persons specified by law.

(3) All courts, law enforcement agencies, prosecutors, the Department of Juvenile Justice, the Cabinet for Families and Children, the Justice ***and Public Safety*** Cabinet, and other agencies holding records coming within the purview of subsection (1) of this section shall make them available to the Administrative Office of the Courts in the manner and at the times specified by the Administrative Office of the Courts.

Section 69. KRS 27A.090 is amended to read as follows:

(1) In any instance that the Justice ***and Public Safety*** Cabinet is required by statute to conduct a criminal records or background check, the Justice ***and Public Safety*** Cabinet may contract with the Administrative Office of the Courts to perform that service.

(2) (a) Except as provided in paragraph (b) of this subsection, the Administrative Office of the Courts shall set a reasonable fee for a criminal records check conducted by the office in an amount no greater than the actual cost of conducting that criminal records check.

(b) When another statute sets the dollar amount of the fee charged for a criminal records check conducted by the Administrative Office of the Courts, the office shall charge that fee.

(3) The Administrative Office of the Courts shall be required to accept a criminal records check request only when the request is made:

(a) By letter, electronic mail, or facsimile transmission; or

(b) In person.

(4) The Administrative Office of the Courts may establish an escrow account for a person who frequently requests that the office conduct criminal records checks.

Section 70. KRS 31.010 is amended to read as follows:

There is hereby established as an independent agency of state government, attached for administrative purposes to the ***Justice and Public Safety***[~~Public Protection and Regulation~~] Cabinet, the Department of Public Advocacy, in order to provide for the establishment, maintenance, and operation of a state sponsored and controlled system for:

(1) The representation of indigent persons accused of crimes or mental states which may result in their incarceration or confinement; and

(2) The pursuit of legal, administrative, and other appropriate remedies to insure the protection of the rights of persons with disabilities. For the purposes of this chapter, "persons with disabilities" shall refer to those persons eligible for protection and advocacy services under Public Laws 99-319, 102-569, 103-218, 106-170, and 106-402 as amended and any other federal enabling statute hereafter enacted that defines the eligible client base for protection and advocacy services.

Section 71. KRS 31.015 is amended to read as follows:

(1) (a) The Public Advocacy Commission shall consist of the following members, none of whom shall be a prosecutor, law enforcement official, or judge, who shall serve terms of four (4) years, except the initial terms shall be established as hereafter provided:

1. Two (2) members appointed by the Governor;

2. One (1) member appointed by the Governor. This member shall be a child advocate or a person with substantial experience in the representation of children;

3. One (1) member who is the executive director of the ***Office of Legislative and Intergovernmental Services***[~~Criminal Justice Council~~] of the Justice ***and Public Safety*** Cabinet;

4. Two (2) members appointed by the Kentucky Supreme Court;

5. Two (2) members, who are licensed to practice law in Kentucky and have substantial experience in the representation of persons accused of crime, appointed by the Governor from a list of three (3) persons submitted to him for each individual vacancy by the board of governors of the Kentucky Bar Association;

6. The dean, ex officio, of each of the law schools in Kentucky or his designee; and

7. One (1) member appointed by the Governor from a list of three (3) persons submitted to him or her by the joint advisory boards of the Protection and Advocacy Division of the Department of Public Advocacy.

(b) Any member of the commission serving prior to July 15, 2002, shall serve until the expiration of his or her current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his or her predecessor was appointed.

(2) At the first meeting of the commission, a drawing by lot shall be conducted to determine the length of each original member's term. Initially there shall be four (4) two (2) year terms, four (4) three (3) year terms, and four (4) four (4) year terms. Vacancies in the membership of the commission shall be filled in the same manner as original appointments. Appointments to fill vacancies occurring before the expiration of a term shall be for the remainder of the unexpired term.

(3) The commission shall first meet at the call of the Governor and thereafter as the commission shall determine on a regular basis, but at least quarterly, and shall be presided over by a chairperson elected by its members for a one (1) year term. A majority of commission members shall constitute a quorum, and decisions shall require the majority vote of those present; except that a recommendation to the Governor pertaining to the appointment, renewal of the appointment, or removal of the public advocate shall require a majority vote of the commission. Each member of the commission shall have one (1) vote, and voting by proxy shall be prohibited.

(4) The public advocate shall, upon appointment or renewal, be an ex officio member of the commission without ***the power to*** vote, shall serve as secretary of the commission, and shall be entitled to attend and participate in all meetings of the commission except discussions relating to renewal of his term or his removal.

(5) Commission members shall be reimbursed for reasonable and necessary expenses incurred while engaged in carrying out the duties of the commission and shall receive one hundred dollars ($100) per day for each meeting attended unless prohibited by law from receiving such compensation.

(6) The commission shall:

(a) Receive applications, interview, and recommend to the Governor three (3) attorneys as nominees for appointment as the public advocate;

(b) Assist the public advocate in drawing up procedures for the selection of his staff;

(c) Review the performance of the public advocacy system and provide general supervision of the public advocate;

(d) Assist the Department of Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system; and

(e) Review and adopt an annual budget prepared by the public advocate for the system and provide support for budgetary requests to the General Assembly.

(7) In no event shall the commission or its members interfere with the discretion, judgment, or advocacy of employees of the Department of Public Advocacy in their handling of individual cases.

Section 72. KRS 42.320 is amended to read as follows:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under KRS 23A.205(1) and 24A.175(1), shall be paid.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:

(a) Forty-nine percent (49%) of each court cost shall be paid into the general fund;

(b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars ($5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;

(c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars ($3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;

(d) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars ($2,750,000), shall be paid into the traumatic brain injury trust fund created in KRS 211.476;

(e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars ($2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;

(f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars ($1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department of Public Advocacy;

(g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars ($1,700,000), shall be paid into the crime victims' compensation fund created in KRS 346.185;

(h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars ($350,000), shall be paid to the Justice ***and Public Safety*** Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;

(i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars ($5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received; and

(j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars ($2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners.

(3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.

(4) Any moneys collected above the prescribed amount shall be paid into the general fund.

Section 73. KRS 44.045 is amended to read as follows:

(1) A passenger motor vehicle or vehicles may be purchased by the Finance and Administration Cabinet for the use of the Governor and the Lieutenant Governor.

(2) Motor vehicles, including passenger motor vehicles, may be purchased by the Finance and Administration Cabinet as are deemed necessary by the secretary of the Finance and Administration Cabinet or by the secretary of the Transportation Cabinet for the discharge of the authorized duties and functions of the various agencies of the state. The vehicles shall be used for official purposes only, and for no other purposes. The assignment of passenger motor vehicles to specific individuals shall be discouraged, but may be made upon approval by the secretary of the Finance and Administration Cabinet of a written request to make the assignment by the head of the agency involved.

(3) All motor vehicles purchased pursuant to this section shall be issued official license plates and shall bear on one (1) door on each side the great seal of the Commonwealth, and the words "For official use only." It shall not be necessary that the vehicles purchased pursuant to subsections (1), (4), and (5) of this section bear the seal and the words.

(4) The Revenue and Justice ***and Public Safety*** Cabinets and the Department of Law~~[and the Crime Commission]~~ may, upon approval by the secretary of the Finance and Administration Cabinet of a written request by the head of the agency involved, register a vehicle or vehicles under KRS 186.020 and be issued regular license plates. The vehicles shall be used

for investigatory purposes only, and for no other purposes.

(5) The Administrative Office of the Courts may register a vehicle or vehicles used by Justices and Judges of the Supreme Court and Court of Appeals under KRS 186.020 and be issued regular license plates.

(6) The secretary of the Transportation Cabinet may adopt administrative regulations pursuant to KRS Chapter 13A necessary to govern the use of those state-owned vehicles acquired pursuant to the provisions of this section.

(7) Any person violating subsections (2) and (4) of this section shall, on conviction thereof, be subject to the penalties prescribed in KRS 44.990.

Section 74. KRS 56.491 is amended to read as follows:

(1) No state agency shall have power or authority to make plans and specifications, provide public notice of invitations for bids, let contracts, or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than two hundred thousand dollars ($200,000) without first securing the approval of the Finance and Administration Cabinet.

(2) The state agency seeking the approval shall submit to the Finance and Administration Cabinet a general description of the proposed project, with the detailed information the cabinet may require. Review of construction plans for conformance with the Uniform State Building Code shall be conducted by the Department of Housing, Buildings and Construction. The Finance and Administration Cabinet shall not approve any project requiring its approval in any instance if it finds that: the project is not needed; the proposed method of financing is not sound; the project will exceed the amount of the funds available therefor; the work contemplated will be insufficient to accomplish the purpose of the project; or after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the State Treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section, that the work is to be done by employees of the agency.

(3) The finding of the Finance and Administration Cabinet shall be final, except in cases where the issuance and sale of bonds is proposed, in which cases the cabinet shall submit its findings to the commission for final approval, modification, or disapproval.

(4) Any capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will exceed two hundred thousand dollars ($200,000), shall be contracted for on a competitive bid basis, and the execution of the contracts shall be approved and authorized by the cabinet. When a capital construction project has been approved as provided in this section, in whole or in part, the cabinet shall prepare the plans and specifications, provide public notice of invitations for bids, award the contracts, supervise the construction, and handle the financial negotiations on behalf of the requesting state agency; or with prior written approval, the cabinet may authorize a state agency to do so with delegated authority of the cabinet.

(5) A capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will not exceed two hundred thousand dollars ($200,000), may be performed by the employees of the requesting agency or by individuals hired specifically for the project who shall be exempt from the requirements of KRS Chapter 18A, if the project is approved and authorized by the cabinet. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the cabinet as defined in KRS Chapter 45A.

(6) This section shall not apply to capital outlays to the Department of Highways for roads and bridges.

(7) This section shall not apply to capital outlays by the Justice ***and Public Safety*** Cabinet for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the Justice ***and Public Safety*** Cabinet shall be approved and authorized by the Finance and Administration Cabinet.

Section 75. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth and shall include qualified civilian firefighters employed at Kentucky-based military installations.

(2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, whose death occurs on or after July 1, 2002, as a direct result of an act in the line of duty shall

receive a lump-sum payment of seventy-five thousand dollars ($75,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

(a) Pay thirty thousand dollars ($30,000) to the surviving children; and

(b) Hold forty-five thousand dollars ($45,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including, but not limited to, defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

(4) The Justice ***and Public Safety*** Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including, but not limited to, defining when a police officer has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

(5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including, but not limited to, defining which employees qualify for coverage and which circumstances constitute death in the line of duty.

(6) The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's, or National Guard retirement or benefit fund established by the federal government or by any state, county, or any municipality.

(7) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Section 76. KRS 61.900 is amended to read as follows:

As used in KRS 61.902 to 61.930:

(1) "Commission" means a commission issued to an individual by the secretary of justice, entitling the individual to perform special law enforcement duties on public property;

(2) "Council" means the Kentucky Law Enforcement Council;

(3) "Cabinet" means the Justice ***and Public Safety*** Cabinet;

(4) "Public property" means property currently owned or used by any organizational unit or agency of state, county, city, metropolitan government, or a combination of these. The term shall include property currently owned or used by public airport authorities;

(5) "Secretary" means the secretary of the Justice ***and Public Safety*** Cabinet;

(6) "Special law enforcement officer":

(a) Means one (1) whose duties include the protection of specific public property from intrusion, entry, larceny, vandalism, abuse, intermeddling, or trespass;

(b) Means one (1) whose duties include the prevention, observation, or detection of, or apprehension for, any unlawful activity on specific public property;

(c) Means one (1) whose special duties include the control of the operation, speed, and parking of motor vehicles, bicycles, and other vehicles, and the movement of pedestrian traffic on specific public property;

(d) Means one (1) whose duties include the answering of any intrusion alarm on specific public property;

(e) Shall include the Capitol police, the Capital Plaza police, public school district security officers, public airport authority security officers, and the officers of the other public security forces established for the purpose of protecting specific public property; and

(f) Shall not include members of a lawfully organized police unit or police force of state, county, city, or metropolitan government, or a combination of these, who are responsible for the detection of crime and the enforcement of the general criminal law enforcement of the state; it shall not include any of the following officials or officers:

1. Sheriffs, sworn deputy sheriffs, city marshals, constables, sworn deputy constables, and coroners;

2. Auxiliary and reserve police appointed under KRS 95.160 or 95.445, or citation and safety officers authorized by KRS 83A.087 and 83A.088;

3. State park rangers and officers of the Division of Law Enforcement within the Department of Fish and

Wildlife Resources;

4. Officers of the Transportation Cabinet responsible for law enforcement;
5. Officers of the Department of Corrections responsible for law enforcement;
6. Fire marshals and deputy fire marshals;
7. Other officers not mentioned above who are employed directly by state government and are responsible for law enforcement;
8. Federal peace officers;
9. Those campus security officers who are commissioned under KRS 164.950;
10. Private security guards, private security patrolmen, and investigators licensed pursuant to state statute; and
11. Railroad policemen covered by KRS 277.270 and 277.280; and

(7) "Sworn public peace officer" means one (1) who derives plenary or special law enforcement powers from, and is a full-time employee of, the federal government, the Commonwealth, or any political subdivision, agency, department, branch, or service of either, or of any municipality.

Section 77. KRS 61.902 is amended to read as follows:

The secretary of the Justice ***and Public Safety*** Cabinet may commission special law enforcement officers, for such time as he deems necessary, to protect and to enforce the law on public property. Upon application of a unit or agency of state, county, city or metropolitan government, the secretary may appoint those persons recommended by the unit or agency who satisfy the requirements of KRS 61.900 to 61.930.

Section 78. KRS 61.904 is amended to read as follows:

KRS 61.900 to 61.930 shall be administered by the secretary, or by any agency within the Justice ***and Public Safety*** Cabinet designated by the secretary and acting under his authority. The secretary shall~~[make,]~~ promulgate~~[,]~~ and enforce such ***administrative***~~[rules, orders,]~~ regulations~~[, and instructions]~~ as may be reasonable and necessary to carry out the provisions of KRS 61.900 to 61.930. The secretary may appoint such employees, and delegate such duties to the same, as he, in his sound discretion, deems appropriate.

Section 79. KRS 62.170 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position form, to cover all other officers, employees, or deputies of the Commonwealth of Kentucky, including all judges, clerks, and employees of the Court of Justice, including all other members of boards or commissions or employees of those boards or commissions, and including all superintendents, receivers, or employees of penal or eleemosynary institutions managed or directed by the Justice ***and Public Safety*** Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, or any other department or agency of the Commonwealth of Kentucky. Nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency, or institutional basis.

(2) The secretary of the Finance and Administration Cabinet may secure one (1) or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he may deem necessary by the exposures indicated in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Personnel Cabinet and, for Court of Justice officers and personnel, by the Administrative Office of the Courts and in accordance with the amounts of money and property handled by the respective officers and employees.

(3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the Department of Insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. The bonds may be written with or without cosureties. Further, the bonds are to be a percentage of the total risks, the Department of Insurance to approve the amount of the risk written by any one (1) company.

(4) The penal amount of the bond secured pursuant to this section shall be fixed by the secretary of the Finance and Administration Cabinet in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Personnel Cabinet and, for Court of Justice officers and personnel, by the Administrative Office of the Courts, and in accordance with the amounts of money and property handled by the respective officers and employees.

Section 80. KRS 64.185 is amended to read as follows:

(1) Coroners shall receive out of the county or urban-county treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	$ 200
(b)	10,001 to 20,000	300
(c)	20,001 to 40,000	350

(d)	40,001 to 60,000	400
(e)	60,001 to 100,000	450
(f)	100,001 to 150,000	800
(g)	150,001 or more	1,000

Coroners who hold a current certificate of continuing education, issued jointly by the Department of Criminal Justice ***and Public Safety*** Training, Justice Cabinet, and the ***Office***[~~Division~~] of ***the***[~~Kentucky~~] State Medical ***Examiner***[~~Examiners~~] Office, Justice ***and Public Safety*** Cabinet, shall be paid the following minimum monthly compensation set forth in this subsection in recognition of the training:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	$ 400
(b)	10,001 to 20,000	500
(c)	20,001 to 40,000	650
(d)	40,001 to 60,000	750
(e)	60,001 to 100,000	850
(f)	100,001 to 150,000	1,100
(g)	150,001 or more	1,300

(2) Deputy coroners, who hold a current certificate of continuing education, as described in subsection (1) of this section, shall receive out of the county or urban-county treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	$200
(b)	10,001 to 20,000	250
(c)	20,001 to 40,000	275
(d)	40,001 to 60,000	300
(e)	60,001 to 100,000	400
(f)	100,001 to 150,000	900
(g)	150,001 or more	1,100

(3) The fiscal court of any county, urban-county, or charter county government, may compensate coroners and deputy coroners an additional amount of up to three hundred dollars ($300) per month as an expense allowance.

(4) The initial course of continuing education required under subsection (1) of this section shall consist of a basic training course prescribed by the Justice ***and Public Safety*** Cabinet. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with subsection (1) of this section.

(5) If a deputy coroner assumes the office of coroner after receiving the training stipulated in this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in subsection (1) of this section.

(6) The number of deputy coroners in a county shall not exceed one (1) for each twenty-five thousand (25,000) inhabitants, or fraction thereof, according to the most recent federal census, but every coroner may, subject to fiscal court approval, appoint two (2) deputy coroners, regardless of population.

Section 81. KRS 72.220 is amended to read as follows:

The Justice ***and Public Safety*** Cabinet shall, within budgetary limitation, provide medical assistance to coroners in investigating deaths; provide or contract for laboratory facilities for performing autopsies and investigations pursuant to KRS 72.210 to 72.275; provide for the keeping of reports of all investigations and examinations; and provide such other functions and duties as may be specified in KRS 72.210 to 72.275 or in the ***administrative***[~~ rules and~~] regulations of the secretary of justice ***and public safety***.

Section 82. KRS 72.235 is amended to read as follows:

The Justice ***and Public Safety*** Cabinet may establish or contract for physical facilities for the conduct of post-mortem and other necessary examinations. The cabinet may employ, by contract or otherwise, pathologists, toxicologists and other ancillary, technical and administrative personnel to perform autopsies and such other pathological, chemical and other studies and examinations as may be deemed necessary. Such studies and examinations may be performed in another state if deemed to be in the best interest of the Commonwealth by the chief medical examiner or the certified coroner or deputy coroner and the reports thereof shall have the same validity and admissibility in evidence as those performed within this state when duly certified by the chief medical examiner of the cabinet or by a certified coroner or deputy coroner.

Section 83. KRS 72.240 is amended to read as follows:

(1) The Justice ***and Public Safety*** Cabinet may employ a board certified forensic pathologist as the chief medical examiner who shall administer the ***Office***[~~Division~~] of ***the***[~~Kentucky~~] State Medical ***Examiner***[~~Examiners Office~~] and one (1) associate chief medical examiner for the Commonwealth.[~~ The chief medical examiner and the associate chief medical examiner shall be affiliated with the state medical schools.~~]

(2) The Justice ***and Public Safety*** Cabinet may employ physicians licensed to practice medicine in Kentucky as county or district medical examiners to carry out the provisions of KRS 72.210 to 72.275 within the counties or district to which they are assigned by the medical examiner section. The cabinet may designate county or district health officers as county or district medical examiners and may authorize additional compensation therefor.

Section 84. KRS 72.400 is amended to read as follows:

In enacting legislation relating to coroners, the General Assembly recognizes that the coroner is an elected constitutional peace officer. The General Assembly also recognizes that the ascertainment of the cause and manner of death in cases in which the coroner has jurisdiction is an essential governmental service. It is the intent of KRS 72.410 to 72.470 to encourage the coroner to participate in approved training sessions to improve his skills for the Commonwealth and to cooperate with the ***Office***[~~Division~~] of ***the***[~~Kentucky~~] State Medical ***Examiner***[~~Examiners Office~~] administered by the Justice ***and Public Safety*** Cabinet.

Section 85. KRS 72.405 is amended to read as follows:

As used in KRS 72.410 to 72.470, unless the context clearly indicates otherwise:

(1) "Coroner ordered autopsy" means an autopsy ordered by the coroner having jurisdiction and performed by a pathologist pursuant to such authorization in order to ascertain the cause and manner of death in a coroner's case. In the event the pathologist deems it necessary, he may submit the appropriate specimen to a qualified chemist or toxicologist for analysis to assist him in ascertaining the cause of death in a coroner's case.

(2) "Coroner's case" means a case in which the coroner has reasonable cause for believing that the death of a human being within his county was caused by any of the conditions set forth in KRS 72.025.

(3) "Inquest" means an examination ordered by the coroner, or in his absence, ordered by a deputy coroner, into the causes and circumstances of any death which is a coroner's case by a jury of six (6) residents of the county impaneled and selected by the coroner to assist him in ascertaining the cause and manner of death.

(4) "Post-mortem examination" means a physical examination of the body by a medical examiner or by a coroner or deputy coroner who has been certified by the Justice ***and Public Safety*** Cabinet and may include an autopsy performed by a pathologist or other appropriate scientific tests administered to determine cause of death.

(5) "Certified coroner" or "certified deputy coroner" means a coroner or deputy coroner who has been certified by the Justice ***and Public Safety*** Cabinet to have successfully completed both the basic training course and annual inservice training course required by KRS 72.415, except that a deputy coroner shall be certified without completion of training courses required by KRS 72.415 if he is a licensed physician. The secretary of justice may waive the requirement for basic training and certify a coroner during the eighteen (18) month period after July 15, 1982, if the advisory commission set forth in KRS 72.225 certifies to the secretary after a thorough review that the experience and knowledge of the specific coroner is such that he is qualified to be a certified coroner without taking the basic training.

Section 86. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner and his deputy in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he is in office the training course of at least eighteen (18) hours provided by the Department of Criminal Justice Training or other courses approved by the Justice ***and Public Safety*** Cabinet after having completed the basic training course the first year of employment. The training course shall include material developed by the cabinet and approved by the Cabinet for Health Services on the human immunodeficiency virus infection and acquired immunodeficiency syndrome. The material shall include information on known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change.

Section 87. KRS 72.460 is amended to read as follows:

The cost of autopsies shall be paid for by the fiscal court; provided, however, that the Justice ***and Public Safety*** Cabinet, ***Office***[~~Division~~] of ***the***[~~Kentucky~~] State Medical ***Examiner***[~~Examiners Office~~], may contract with pathologists and toxicologists and chemists and pay for such autopsies within the budgetary limitations of funds appropriated by the General Assembly for this purpose.

Section 88. KRS 95.960 is amended to read as follows:

Funds in the Kentucky Law Enforcement Foundation Program Fund may be utilized by the Department of Criminal Justice Training to reimburse cities, urban-counties, or charter counties with regular police departments of ten (10) or fewer officers for the cost of the base salary for each regular, full-time police officer while the officer is obtaining the training required in KRS 95.955. The city, urban-county, or charter county shall show to the satisfaction of the Department of Criminal Justice Training that it will be placed in a situation of undue hardship if the funding is not provided. The secretary of the Justice ***and Public Safety*** Cabinet shall promulgate administrative regulations upon the recommendation of the Kentucky Law Enforcement Council to define what constitutes "undue financial hardship" and to otherwise implement this section.

Section 89. KRS 100.361 is amended to read as follows:

(1) Nothing in this chapter shall apply or affect zoning regulations adopted pursuant to KRS Chapter 183.

(2) Nothing in this chapter shall impair the sovereignty of the Commonwealth of Kentucky over its political subdivisions. Any proposal affecting land use by any department, commission, board, authority, agency, or instrumentality of state government shall not require approval of the local planning unit. However, adequate information concerning the proposals shall be furnished to the planning commission by the department, commission, board, authority, agency, or instrumentality of state government. If the state proposes to acquire, construct, alter, or lease any land or structure to be used as a penal institution or correctional facility, and the proposed use is inconsistent with or contrary to local planning regulations or the comprehensive plan for the area, the secretary of the Justice ***and Public Safety*** Cabinet, or his designee, shall notify, in accordance with KRS 424.180, the planning commission, the local governing body, who has jurisdiction over the area involved, and the general public of the state's proposals for the area, and he shall hold a public hearing on the proposals within the area at least ninety (90) days prior to commencing the acquisition, construction, alteration, or leasing. A final report on the public hearing shall be submitted to the Governor and members of the General Assembly within twenty-five (25) days of the public hearing, and prior to commencing any construction, alteration, acquisition, or leasing of such property or facilities.

Section 90. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the Revenue Cabinet, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the Revenue Cabinet all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).

(b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the secretary of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the secretary of revenue to calculate an appropriate rate, the secretary for the Public Protection and Regulation Cabinet and the secretary for the Justice ***and Public Safety*** Cabinet shall certify to the secretary of revenue, no later than January 1 of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the secretary of revenue shall advise the commissioner of insurance of the new rate and the commissioner shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended,

encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

(4) No later than July 1 of each year,' the Department of Insurance shall provide the Revenue Cabinet with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the Revenue Cabinet shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Department of Insurance. The Revenue Cabinet shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year, and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Department of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the cabinet shall not identify or divulge the confidential tax information of any individual insurer in this report.

Section 91. KRS 156.483 is amended to read as follows:

(1) The State Department of Education shall not employ, in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime defined in KRS 17.165 as a felony. The Department of Education may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor. The Department of Education shall request all conviction information for any applicant for employment from the Justice ***and Public Safety*** Cabinet prior to employing the applicant.

(2) Each application form, provided by the Department of Education to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(3) Any request for records under subsection (1) of this section shall be on a form approved by the Justice ***and Public Safety*** Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(4) The provisions of this section shall apply after July 15, 1988, to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor.

Section 92. KRS 156.497 is amended to read as follows:

(1) There is created an Interagency Task Force on Family Resource Centers and Youth Services Centers which shall consist of twenty-one (21) members appointed by the Governor. The twenty-one (21) members appointed shall include one (1) representative from each of the following agencies or groups, except the Department of Education which shall include three (3) representatives and parents which shall have three (3) representatives:

  (a) Department of Education;
  (b) Department for Employment Services of the Cabinet for Workforce Development;
  (c) Department for Health Services of the Cabinet for Human Resources;
  (d) Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources;
  (e) Department for Social Services of the Cabinet for Human Resources;
  (f) Department for Social Insurance of the Cabinet for Human Resources;
  (g) Justice ***and Public Safety*** Cabinet;
  (h) Governor's Office;
  (i) Office of the Secretary, Cabinet for Workforce Development;
  (j) Parents;

(k) Teachers;

(l) Local school administrators;

(m) Local school boards;

(n) Local community mental health-mental retardation programs;

(o) Local health departments;

(p) Local community action agencies; and

(q) A family resource and youth services coordinator.

(2) The task force shall be appointed and begin to meet immediately upon July 13, 1990, to formulate a five (5) year implementation plan establishing family resource and youth services centers designed to meet the needs of children and their families. By July 1, 1995, the implementation plan shall be revised to include two (2) additional years, 1996 and 1997. The centers shall provide services which will enhance students' abilities to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services. The secretary of the Cabinet for Human Resources shall call the first meeting, at which time the task force by majority vote shall elect a task force chair to serve a one (1) year term. A new chair shall be elected annually thereafter, and the chair may succeed himself. The Cabinet for Human Resources shall provide adequate staff to assist in the development and implementation of the task force's plan.

(3) The plan developed by the task force shall include an effort to implement a network of family resource centers across the Commonwealth. The centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and shall include, but not be limited to, the following components for each site:

(a) Full-time preschool child care for children two (2) and three (3) years of age;

(b) After school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;

(c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;

(d) Parent and child education (PACE) as described in KRS 158.360 or similar program;

(e) Support and training for child day care providers; and

(f) Health services or referral to health services, or both.

(4) The plan developed by the task force shall include a schedule to implement a network of youth services centers across the Commonwealth. The centers shall be located in or near each school, except elementary schools, serving youth over twelve (12) years of age and in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and include, but not be limited to, the following components for each site:

(a) Referrals to health and social services;

(b) Employment counseling, training, and placement;

(c) Summer and part-time job development;

(d) Drug and alcohol abuse counseling; and

(e) Family crisis and mental health counseling.

(5) The task force shall complete its implementation plan for the program prior to January 1, 1991, and local school districts shall develop initial plans for their family resource centers and youth services centers by June 30, 1991. By June 30, 1992, family resource centers and youth services centers shall be established in or adjacent to at least one-fourth (1/4) of the eligible schools, with expansion by one-fourth (1/4) by June 30 of each year thereafter or until the centers have been established in or adjacent to all eligible schools.

(6) A grant program is established to provide financial assistance to eligible school districts establishing family resource centers and youth services centers. The Cabinet for Human Resources shall award the grants pursuant to KRS 156.4977. A school district shall not operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for purposes of seeking an abortion.

(7) Funding provided to the Cabinet for Families and Children for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.

(8) The task force shall continue to monitor the family resource centers and the youth services centers, review grant applications, and otherwise monitor the implementation of the plan until December 31, 1997, at which time the task force shall cease to exist. During its existence, the task force shall report at least annually to the secretary of the Cabinet for Human Resources, the State Board for Elementary and Secondary Education, the Governor, and the Legislative Research Commission.

(9) Members of the task force may be reimbursed for actual expenses for attending meetings and for other actual and necessary expenses incurred in the performance of their duties authorized by the task force. The expenses shall be paid out of the appropriation for the task force.

Section 93. KRS 161.148 is amended to read as follows:

(1) As used in this section, "volunteers" means adults who assist teachers, administrators, or other staff in public school classrooms, schools, or school district programs, and who do not receive compensation for their work.

(2) Local school districts may utilize adult volunteers in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.

(3) Each board of education shall develop policies and procedures that encourage volunteers to assist in school or district programs.

(4) Each local board of education shall develop and adopt a policy requiring a state criminal records check on all volunteers who have contact with students on a regularly scheduled or continuing basis, or who have supervisory responsibility for children at a school site or on school-sponsored trips. The request for records may be from the Justice ***and Public Safety*** Cabinet or the Administrative Office of the Courts, or both, and shall include records of all available convictions as described in KRS 17.160(1). Any request for a criminal records check of a volunteer under this subsection shall be on a form or through a process approved by the Justice Cabinet ***and Public Safety*** or the Administrative Office of the Courts. If the cabinet or the Administrative Office of the Courts charges fees, the local board of education shall arrange to pay the cost which may be from local funds or donations from any source including volunteers.

(5) The local board of education shall provide orientation material to all volunteers who have contact with students on a regularly scheduled or continuing basis, including school policies, safety and emergency procedures, and other information deemed appropriate by the local board of education.

(6) The provisions of this section shall not apply to students enrolled in an educational institution and who participate in observations and educational activities under direct supervision of a local school teacher or administrator in a public school.

Section 94. KRS 164.2841 is amended to read as follows:

(1) (a) Any person whose parent or any nonmarried widow or widower whose spouse was a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter and who was killed while in active service or training for active service or who died as a result of a service-connected disability shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution. The provisions of this subsection shall apply to any firefighter or volunteer firefighter who is killed or dies under the conditions covered in this subsection on July 1, 1989, or thereafter.

(b) In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the Kentucky Justice ***and Public Safety*** Cabinet, the appropriate city or county law enforcement agency which employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.

(2) (a) Any person whose parent or any nonmarried widow or widower whose spouse was an employee participating in a state-administered retirement system, and not otherwise covered by subsection (1) of this section, and who died as a result of a duty-related injury as described in KRS 61.621 shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution.

(b) In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the employing agency or the appropriate retirement system.

(3) If one so admitted to a state-supported university, community college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of his attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Section 95. KRS 164.2842 is amended to read as follows:

(1) (a) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer, firefighter, or volunteer firefighter injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the

lesser number of months required for a certificate of completion.

(b) For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer, firefighter, or volunteer firefighter shall be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky Justice ***and Public Safety*** Cabinet, the appropriate city or county law enforcement agency which employed the disabled, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, or if deceased, the claim to benefits is to be based on the rating held by the law enforcement officer, firefighter, or volunteer firefighter at the time of death. The parent's or spouse's service and rating shall be evidenced by certification from the records of the Kentucky Justice Cabinet ***and Public Safety***, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.

(c) In the absence of certification of permanent and total disability by the Kentucky Department of Workers' Claims, the Kentucky Justice ***and Public Safety*** Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.

(d) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.

(e) To entitle a spouse or child to benefits under this section the disabled law enforcement officer, firefighter, or volunteer firefighter shall have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter.

(2) (a) The spouse, regardless of age, and any child of a person who was an employee participating in a state-administered retirement system and not otherwise covered by subsection (1) of this section and who was disabled as a result of a duty-related injury as described in KRS 61.621, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(b) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.

(3) The marriage of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

Section 96. KRS 164.970 is amended to read as follows:

(1) Vehicles used for emergency purposes by the safety and security department of a public institution of higher education shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.

(2) Safety and security officers directly employed by the governing board of public institutions of higher education pursuant to KRS 164.950 to 164.980 shall have the rights accorded to peace officers in cities of the first four (4) classes provided under KRS 527.020, provided the governing board of the public institution of higher education so authorized in writing.

(3) Safety and security departments of public institutions of higher education may install, maintain, and operate radio systems on police or other radio frequencies under licenses issued by the Federal Communications Commission, or its successor; KRS 432.570 to the contrary notwithstanding.

(4) Safety and security departments of public institutions of higher education shall comply with the requirements of the Kentucky Revised Statutes and the Justice ***and Public Safety*** Cabinet with regard to reporting of criminal and other statistics.

Section 97. KRS 165A.470 is amended to read as follows:

(1) A person shall not operate, conduct, maintain, or establish a CDL driver training school unless the person holds a valid current license issued by the board. The following persons shall not be allowed to be connected in any capacity whatsoever with a CDL driver training school:

(a) Any person whose employment duties in any way relate to the issuance of a motor vehicle operator's license under KRS Chapter 186 or 281A;

(b) Any employee of the board, Justice ***and Public Safety*** Cabinet, or ***Department of*** Kentucky State Police; and

(c) Any member of the immediate family of persons identified in paragraphs (a) and (b) of this subsection.

(2) A person shall not operate, conduct, maintain, or establish a CDL driver training school unless the school has:

(a) At least one (1) licensed CDL driver training instructor in its employ; and

(b) At least one (1) commercial motor vehicle owned or leased in the name of the CDL driver training school that is properly registered in the Commonwealth and that has undergone a safety inspection within the past twelve (12) months.

(3) A person shall not continue to operate a CDL driver training school if the board has suspended, revoked, canceled, or refused to renew the school's license.

(4) A person shall not act as an instructor for a CDL driver training school unless the person holds a valid current license as an instructor issued by the board and unless the person is employed by a licensed CDL driver training school.

Section 98. KRS 174.410 is amended to read as follows:

(1) The secretary shall be responsible for controlling and regulating the movement of all radioactive materials and the intrastate transport of other hazardous materials transported by all carrier modes within the Commonwealth.

(2) The secretary, in consultation with the secretary of the Natural Resources and Environmental Protection Cabinet and the secretary of the Cabinet for Health Services, shall adopt by reference or in entirety, the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), as amended, to effectively carry out the intent of KRS 174.400 to 174.425.

(3) The cabinet and the Justice ***and Public Safety*** Cabinet shall cooperate with and assist the Natural Resources and Environmental Protection Cabinet in implementing and enforcing the transportation provisions of any state hazardous waste regulations promulgated pursuant to KRS Chapter 224. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets, and all activities shall occur in accordance with the terms of the agreement. The agreement shall address and include, but not necessarily be limited to, the following items:

(a) As a part of routine and periodic transportation checks and inspections, ensure that shipments of hazardous waste do not present a threat to the public or the environment; are accompanied by the required hazardous waste manifest or such other shipping or delivery documents as may be acceptable to the Natural Resources and Environmental Protection Cabinet; and comply with applicable shipping standards;

(b) Upon receipt of a written request from the secretary or general counsel of the Natural Resources and Environmental Protection Cabinet, actively conduct field investigations relating to the illegal, improper, or unauthorized transport of hazardous waste in the state. Such investigations may, at a minimum, include passive and active surveillance, apprehension, and reporting, with the scope and extent of each investigation to be previously agreed to by the involved cabinets;

(c) Compile and maintain such necessary records that may normally be required to carry out the provisions of this subsection and shall for minor violations report quarterly, and for major violations report weekly, to the Natural Resources and Environmental Protection Cabinet on the status of the interagency hazardous-waste transportation monitoring and enforcement activity for irregularities or violations;

(d) Provide any information, evidence, and other support, either in written form or in the form of oral testimony during a legal proceeding or both, as may be required by the Natural Resources and Environmental Protection Cabinet to fully carry out its statutory responsibility under the appropriate sections of KRS Chapter 224;

(e) The Natural Resources and Environmental Protection Cabinet shall, unless specifically agreed otherwise, have primary responsibility for initiating and conducting all legal proceedings arising from the terms and provisions of this subsection; and

(f) The Natural Resources and Environmental Protection Cabinet shall provide sufficient training, technical assistance, and other support to the appropriate cabinets to prepare representatives of the cabinets to adequately carry out the responsibilities set forth in this subsection.

Section 99. KRS 183.884 is amended to read as follows:

(1) Vehicles used for emergency purposes by the safety and security department of an airport board shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.

(2) Safety and security departments of the airport boards may install, maintain, and operate radio systems on police or other frequencies under licenses issued by the Federal Communications Commission, or its successor.

(3) Safety and security departments of airport boards shall comply with the requirements of the Kentucky Revised Statutes and the Justice ***and Public Safety*** Cabinet with regard to reporting of criminal and other statistics.

Section 100. KRS 186.005 is amended to read as follows:

(1) It is declared to be the policy of this Commonwealth that all commercial vehicles should be regulated, registered, and the laws pertaining thereto be administered by the Transportation Cabinet. Motor vehicles other than commercial vehicles should be registered, regulated, and controlled by the Transportation Cabinet and the Justice ***and Public Safety*** Cabinet.

(2) All motor vehicles registered under the provisions of KRS 186.050(1) shall be on an annual basis and evidenced by a license plate whose registration designation is a combination of three (3) letters of the alphabet and three (3) Arabic numerical digits. These registration plates shall be issued for use during a multiyear period and validated for continued use the following year, or years, by affixing an appropriate insignia of plastic or adhesive material bearing the date of the new

year.

(3) All motor vehicles registered under the provisions of KRS 186.050(3)(a), (4)(a), (5), (6), or (11) shall have registration plates issued for use during a multiyear period and validated for continued use the following year, by affixing an appropriate insignia of plastic or adhesive material bearing the date of the new year.

(4) The Transportation Cabinet may promulgate regulations and prepare the proper insignia and forms, which forms shall include information required by the Transportation Cabinet.

Section 101. KRS 189.580 is amended to read as follows:

(1) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.

(2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of his name, address, and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address, and the registration number of the vehicle he is driving, or shall file a report with the local police department.

(3) The operator of a vehicle involved in an accident in subsection (1) or (2) above resulting in injury to or death of any person or in which total property damage of five hundred dollars ($500) or more is sustained shall, within ten (10) days, report the matter in writing to the Justice ***and Public Safety*** Cabinet.

Section 102. KRS 189.635 is amended to read as follows:

(1) The Justice ***and Public Safety*** Cabinet, Department of ***Kentucky*** State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of ***Kentucky*** State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars ($500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of ***Kentucky*** State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) All accident reports filed with the Department of ***Kentucky*** State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident. Except as provided in subsection (7) of this section, all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (6) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and the insurers of any party who is the subject of the report, or to the attorneys of the parties.

(6) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.

(7) The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the

accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

Section 103. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

(1) He has given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if an officer has reasonable grounds to believe that a violation of KRS 189A.010(1) or 189.520(1) has occurred.

(2) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.

(3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).

(a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice ***and Public Safety*** Cabinet, and shall have been performed, as to breath tests, only after a peace officer has had the person under personal observation at the location of the test for a minimum of twenty (20) minutes.

(b) All breath tests shall be administered by a peace officer holding a certificate as an operator of a breath analysis instrument, issued by the secretary of the Justice ***and Public Safety*** Cabinet or his designee.

(4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument. The secretary of the Justice ***and Public Safety*** Cabinet shall keep available for public inspection copies of these manufacturer's instructions for all models of breath testing devices in use by the Commonwealth of Kentucky.

(5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.

(6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.

(7) After the person has submitted to all alcohol concentration tests and substance tests requested by the officer, the person tested shall be permitted to have a person listed in subsection (6) of this section of his own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 104. KRS 189A.120 is amended to read as follows:

(1) When an alcohol concentration for a person twenty-one (21) years of age or older in a prosecution for violation of KRS 189A.010 is 0.08 or above, is 0.02 or above for a person under the age of twenty-one (21), or when the defendant, regardless of age, has refused to take an alcohol concentration or substance test, a prosecuting attorney shall not agree to the amendment of the charge to a lesser offense and shall oppose the amendment of the charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.

(2) A prosecuting attorney shall not amend a blood alcohol concentration, and he shall oppose the amendment of the percentage, unless uncontroverted scientific evidence is presented that the test results were in error. In those cases, the prosecutor shall state his reasons for agreeing with the amendment, and the scientific data upon which the amendment was made shall be made a part of the record in this case.

(3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the court to the Justice ***and Public Safety*** Cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

Section 105. KRS 189A.300 is amended to read as follows:

The Commonwealth shall provide at least one (1) breath alcohol analysis and simulating unit for each county, paid for by state funds received pursuant to the service fee levied in KRS 189A.050. All units shall be approved by the secretary of the Justice ***and Public Safety*** Cabinet or his designee.

Section 106. KRS 194A.150 is amended to read as follows:

When federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for Families and Children, the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice ***and Public Safety*** Cabinet, the secretary of the Natural Resources and Environmental Protection Cabinet, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, the secretary of the Public Protection and Regulation Cabinet, the secretary of the Labor Cabinet, or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 107. KRS 194B.110 is amended to read as follows:

(1) The Kentucky Commission on Human Services Collaboration is hereby created and is attached to the Cabinet for Families and Children for administrative purposes. The commission shall develop, adopt, and amend, as appropriate, a service coordination plan to promote health, education, and social services partnerships of public and private agencies. The commission shall coordinate, evaluate, and provide technical assistance in implementing the service coordination plan.

(2) The commission shall coordinate and facilitate development of community partnership strategic plans, which are designed to implement the service coordination plan.

(3) The commission shall coordinate and facilitate development of outcomes to be achieved by community partnerships as outlined in the service coordination plan and report on progress toward achieving results.

(4) The commission shall also work to increase the efficiency and effectiveness of services to individuals, families and children through the identification and elimination of duplicative boards and commissions, which exercise overlapping responsibilities, and the identification of gaps in and barriers to the provision and receipt of human services. The commission shall provide technical assistance to communities.

(5) The commission shall report to the Legislative Research Commission and the General Assembly by October 1 of each year on the following:

    (a) The coordination plan;
    (b) The community partnership strategic plans;
    (c) The increase in the efficiency and effectiveness of services;
    (d) The boards and commissions eliminated;
    (e) The boards and commissions identified as duplicative; and
    (f) The identified gaps and barriers to provision and receipt of human services.

(6) The commission shall consist of the following members:

    (a) The Governor's designee;
    (b) The secretary of the Cabinet for Families and Children;
    (c) The secretary for the Cabinet for Health Services;
    (d) The secretary of the Cabinet of Economic Development;
    (e) The secretary of the Justice ***and Public Safety*** Cabinet;
    (f) The secretary of Arts, Education and Humanities;
    (g) The secretary of the Tourism Cabinet;
    (h) The secretary of the Cabinet for Workforce Development;
    (i) The commissioner of education;
    (j) The commissioner of juvenile justice;
    (k) The director of the Administrative Office of the Courts;
    (l) Seven (7) gubernatorial appointees, representing business, community leaders, and consumers; and
    (m) The chair for the Council on State and Local Collaboratives.

(7) Members who hold state government positions shall serve by virtue of their offices. The remaining initial members of the commission shall be designated by the Governor to serve for a term ranging from one (1) to four (4) years. Subsequent appointments to the commission shall be for four (4) year terms and limited to two (2) consecutive four (4) year terms.

(8) The Governor shall designate a member of the public appointed to the commission to serve as chair of the commission for a term of two (2) years. Thereafter, a chair shall be selected by the members of the commission from the members of the public appointed by the commission. The chair shall serve for a period of two (2) years.

(9) The chair of the commission, following consultation with the cabinet secretaries and upon agreement of the commission, may designate work groups to make recommendations to the commission regarding parental and community involvement and its mission.

(10) Staff assistance shall be provided to the commission through the cooperative efforts of the members of the commission serving in the executive cabinet. Primary staff assistance shall be the responsibility of the Cabinet for Families and Children.

(11) Members of the commission shall be eligible to receive travel expenses while attending meetings of the commission in

accordance with state travel regulations. Members of committees appointed by the commission shall be eligible for reimbursement of travel expenses incurred while attending committee or commission meetings in accordance with state travel regulations.

(12) The commission shall cease to exist two (2) years after July 15, 1998, unless otherwise reauthorized by the General Assembly.

Section 108. KRS 194B.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for Health Services, the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice Cabinet ***and Public Safety***, the secretary of the Natural Resources and Environmental Protection Cabinet, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 109. KRS 196.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Justice ***and Public Safety*** Cabinet;

(2) "Commissioner" means commissioner of the Department of Corrections;

(3) "Department" means the Department of Corrections;

(4) "Institution" means any institution under the control of the Department of Corrections; and

(5) "Secretary" means secretary of the Justice ***and Public Safety*** Cabinet.

Section 110. KRS 196.026 is amended to read as follows:

The Department of Corrections shall consist of the following organizational units:

(1) ***Personnel Division;***

(2) Office of Adult Institutions, which shall have the following divisions:

(a) Operations and Program Services Division;

1. Division of Medical Services;

2. Mental Health Services Division;

3. Kentucky State Reformatory Division;

4. Luther Luckett Correctional Complex Division;

5. Roederer Correctional Complex Division;

6. Blackburn Correctional Complex Division;

7. Kentucky Correctional Institution for Women Division;

8. Frankfort Career Development Center Division;

9. Northpoint Training Center Division;

10. Eastern Kentucky Correctional Complex Division;

11. Bell County Forestry Camp Division;

12. Kentucky State Penitentiary Division;

13. Western Kentucky Correctional Complex Division;

14. Green River Correctional Complex Division; and

15. Little Sandy Correctional Complex Division.

Each division specified in subparagraphs 3. to 15. of this paragraph shall be headed by a warden pursuant to KRS 196.160;

(b) Office of Community Services and Facilities, which shall have the following divisions:

1. Division of Probation and Parole; and

2. Division of Local Facilities; and

(c) Office of Support Services, which shall have the following divisions:

1. Division of Administrative Services;

2. Division of Corrections Training; and

3. Division of Correctional Industries~~[Office of General Counsel;~~

~~(2) Division of Administrative Services;~~

~~(3) Division of Corrections Training;~~

~~(4) Division of Institutional Operations;~~

~~(5) Division of Mental Health Programs;~~

~~(6) Division of Correctional Industries;~~

~~(7) Division of Medical Services;~~

~~(8) Division of Probation and Parole;~~

~~(9) Division of Community Services and Local Facilities;~~

~~(10) Division of Personnel Services; and~~

~~(11) Western Region Division and Eastern Region Division, Adult Institutions.~~

~~Each state penal correctional institution referenced in KRS 197.010 shall be considered a division for organizational purposes. Each institution shall be headed by a warden pursuant to KRS 196.160~~].

Section 111. KRS 196.035 is amended to read as follows:

The secretary shall, except as otherwise provided in KRS 439.250 to 439.560 and KRS Chapter 13A, have the power and authority to ***promulgate***[~~adopt, amend, or rescind~~] administrative regulations he deems necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies. The secretary may delegate to any person appointed the power and authority as he deems reasonable and proper for the effective administration of the cabinet.

Section 112. KRS 196.075 is amended to read as follows:

The department[~~ of Corrections~~], under the direction of the commissioner, shall exercise the functions vested in the department relating to probation and parole. The commissioner shall ***promulgate***[~~make~~] administrative regulations governing parolees and shall have the same powers of arrest as probation and parole officers.

Section 113. KRS 196.701 is amended to read as follows:

(1) To develop and implement a statewide strategic plan for ***the state and community corrections programs, the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice and Public Safety Cabinet. The commission shall consist of twenty-two (22) members as follows:***

(a) The secretary of the Justice and Public Safety Cabinet or his or her designee in writing;

(b) The commissioner of the Department of Corrections or his or her designee in writing;

(c) The deputy commissioner of the Office of Community Services and Facilities;

(d) The deputy commissioner of the Office of Adult Correctional Institutions;

(e) The executive director of the Parole Board or his or her designee in writing;

(f) The executive director of the Office of Legislative and Intergovernmental Services of the Justice and Public Safety Cabinet or his or her designee in writing;

(g) Two (2) Circuit Court Judges appointed by the Chief Justice;

(h) A county judge/executive appointed by the Governor;

(i) A county jailer appointed by the Governor;

(j) A Commonwealth's attorney appointed by the Governor;

(k) A practicing attorney appointed by the Governor;

(l) A victim, as that term is defined in KRS 346.020, appointed by the Governor;

(m) Four (4) service providers from the field of mental health, substance abuse treatment, or vocational and educational training appointed by the Governor;

(n) A public member who is qualified to express the views of organized labor appointed by the Governor;

(o) The public advocate or his or her designee in writing; and

(p) Three (3) at-large members appointed by the Governor[~~community corrections programs, the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice Cabinet. The commission shall consist of eleven (11) members as follows:~~

~~(a) The deputy commissioner of the Division of Community Services and Local Facilities;~~

~~(b) A Circuit Court judge appointed by the Chief Justice;~~

~~(c) A county judge/executive appointed by the Governor;~~

~~(d) A county jailer appointed by the Governor;~~

~~(e) A Commonwealth's attorney appointed by the Governor;~~

~~(f) A victim, as that term is defined in KRS 346.020, appointed by the Governor;~~

~~(g) Two (2) service providers from the field of mental health, substance abuse treatment, or vocational and educational training appointed by the Governor;~~

~~(h) The executive director of the Office of the Criminal Justice Council or the executive director's designee;~~

~~(i) The executive director of the Parole Board; and~~

~~(j) The public advocate or his or her designee~~].

(2) The terms of those members appointed by the appointing authority shall be three (3) years. These members shall serve at the pleasure of the appointing authority and shall be eligible for reappointment. ***The appointed members may be removed for cause. All others serve during their terms of office.*** If there is a vacancy, the appointing authority shall immediately make an appointment effective for the unexpired term.

(3) The chairperson of the commission shall be the ***secretary of justice and public safety***[~~deputy commissioner of the Division of Community Services and Local Facilities~~]. The ***commissioner of the Department of Corrections shall serve as the***[~~commission shall elect from among its members a~~] vice chairperson who shall preside and exercise the functions of the chairperson during absence or disability of the chairperson.

(4) Regular meetings of the commission shall be held at least once every four (4) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairperson. If five (5) or more members of the commission request in writing that the chairperson call a special meeting, then the chairperson shall call a special meeting.

(5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The administrative functions of the commission shall be performed by a full-time employee of the department who is selected by the commissioner. ***All public members of the commission shall, in addition to expenses, receive twenty-five dollars ($25) per day for attending each meeting.***

Section 114. KRS 196.702 is amended to read as follows:

The commission shall:

(1) Develop a statewide strategic plan for the development and implementation of goals and objectives, target populations, and program criteria for community corrections programs;

(2) Conduct, in collaboration with community corrections boards, a statewide assessment of community corrections programs;

(3) Award all grant moneys to community corrections programs;

(4) Review community correction program plans and their implementation to ensure compliance with the statewide strategic plan, including the following goals:

  (a) Effectiveness of community corrections programs in maintaining public safety;

  (b) Reduction of local commitments to the department;

  (c) Reduction in the rate of recidivism; and

  (d) Reduction in revocations of probation and parole;

(5) Provide technical assistance, support, and training to local boards;

(6) Submit an annual report no later than September 1 of each year to the commissioner, the Governor, and the General Assembly which includes at least the following information:

  (a) The status of the implementation of the statewide strategic plan;

  (b) The effectiveness of community corrections programs in achieving the goals outlined in subsection (4) of this section; and

  (c) An accounting of the distribution of grants and other funds;[~~ and~~]

(7) Administer the provisions of KRS 196.700 to 196.735***;***

(8) Advise the Governor and the commissioner concerning correctional policy and programs, including particularly the following:

  (a) The need for, and the development of, new or specialized institutions, facilities, or programs;

  (b) The need for, and the effectuation of, collaboration and liaison within the department, and between the department and community agencies and resources, including the bench and bar, in order to promote the readjustment and rehabilitation of offenders in institutions or under parole or probation supervision in the community; and

  (c) The need for, and the development of, useful research in penology, correctional treatment, criminal law, or in the disciplines relevant thereto; and

(9) As required by KRS 439.320(1), submit the names of three (3) candidates to the Governor for every vacancy or expired term on the Parole Board. As part of its duties in the nomination of candidates for the Parole Board, the commission shall:

  (a) Publicize vacancies and impending term expirations on the Parole Board in accordance with standards set forth

in KRS 424.180;

(b) Forward a statement of qualifications of each nominee to the Governor along with the nomination. This statement shall identify the experience which meets the qualifications for Parole Board membership outlined in KRS 439.320(1); and

(c) Maintain the statement of qualifications as a public record in accordance with KRS 61.870 to 61.884.

SECTION 115. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

The commission or one (1) or more of its members may visit and inspect any state penal institution, and may inform and advise the commissioner of the Department of Corrections in regard to the institution's physical or other condition, its discipline, management, program, and its general adequacy or inadequacy. The commission or a majority of its members shall have full access to the grounds and buildings and to the books and records belonging or relating to the institution, as well as the right to subpoena witnesses, take proof, or hear testimony under oath relating to the institution.

Section 116. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

(1) "State agency" means any department, board, commission, or agency of the state government;

(2) "Cabinet" means the Justice ***and Public Safety*** Cabinet;

(3) "Department" means Department of Corrections;

(4) "Penitentiaries" includes the state penal institutions for males at Eddyville, LaGrange, the Green River Correctional Complex, the Luther Luckett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof, any private prison as provided by KRS 197.500, and any other similar institutions hereafter established.

(5) "Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary.

Section 117. KRS 197.020 is amended to read as follows:

(1) The Department of Corrections shall:

  (a) ***Promulgate administrative regulations***[~~Formulate and prescribe all necessary regulations and bylaws~~] for the government and discipline of the penitentiary,[~~ the rules for~~] the government and official conduct of all officials connected with the penitentiary***,*** and for the government of the prisoners in their deportment and conduct;

  (b) ***Promulgate administrative regulations for***[~~Prescribe~~] the character of food and diet of the prisoners;[~~ rules for~~] the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; ***the***[~~and~~] quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;

  (c) ***Promulgate administrative regulations***[~~Adopt, amend, and rescind~~], as the department deems necessary ***for***,[~~ administrative regulations governing~~] the disposition of abandoned, lost, or confiscated property of prisoners; and

  (d) Cause the administrative regulations ***promulgated***[~~prescribed~~] by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.

(2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.

(3) The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.

Section 118. KRS 197.110 is amended to read as follows:

The Department of Corrections shall ***promulgate***[~~make~~] administrative regulations it deems necessary and proper in relation to:

(1) The classification of prisoners;

(2) The terms and conditions under which prisoners may be assigned to work under the direction of any other state agency;

(3) The adequate care, supervision, guarding, discipline, maintenance, transportation, and housing of prisoners when assigned to work outside of the prison. The department shall ascertain from the jailer of the county in which the work is being carried on if accommodations are available, and shall place as many prisoners as possible under the care of the jailer;

(4) The payment of money to prisoners and their dependents for work performed, including the amount to be paid and the manner of the payment and distribution thereof;

(5) Any other purposes as the department deems necessary and proper for carrying out the intent of this chapter.

Section 119. KRS 197.500 is amended to read as follows:

As used in KRS 197.505 to 197.525, unless the context otherwise requires:

(1)[~~"Department" means the Department of Corrections;~~

~~(2)~~] "Adult correctional facility" means any minimum or medium adult penal or correctional facility operated for the purpose of housing convicted felons for the department; and

(2)[~~(3)~~] "Private provider" means a private legal entity authorized to do business in the Commonwealth and which is in the business of establishing, operating, and managing adult correctional facilities.

Section 120. KRS 199.462 is amended to read as follows:

(1) Before an applicant is approved to provide foster care or relative caregiver services to a child, or approved to receive a child for adoption, the Cabinet for Families and Children shall:

- (a) Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of ***Kentucky*** State Police and the Federal Bureau of Investigation; or
- (b) Request from the Justice ***and Public Safety*** Cabinet records of all conviction information for the applicant and any of the applicant's adult household members. The Justice ***and Public Safety*** Cabinet shall furnish the information to the Cabinet for Families and Children and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the Justice ***and Public Safety*** Cabinet and the Justice ***and Public Safety*** Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

(3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for Families and Children may require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section.

(4) The Cabinet for Families and Children shall promulgate an administrative regulation to implement this section.

Section 121. KRS 205.177 is amended to read as follows:

(1) Notwithstanding any existing state statute or regulation to the contrary, any pertinent information concerning individual clients, patients, or applicants in the possession of the Justice ***and Public Safety*** Cabinet, Cabinet for Health Services, Cabinet for Families and Children, Department of Education, or any other state or local governmental agency may be shared with any authorized representative of any other state or local governmental agency of similar function if the agency has a direct, tangible, legitimate interest in the individual concerned or his immediate family.

(2) Any state agency designated in subsection (1) of this section may share pertinent information concerning a client, patient, or applicant with any private or quasi-private agency when such agency has an agreement with that state agency assuring the confidentiality of all such information, and provided that the private or quasi-private agency has a direct, tangible, legitimate interest in the individual concerned or his immediate family.

Section 122. KRS 210.502 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

- (a) The secretary of the Cabinet for Health Services;
- (b) The secretary of the Cabinet for Families and Children;
- (c) The secretary of the Justice ***and Public Safety*** Cabinet;
- (d) The commissioner of the Department for Mental Health and Mental Retardation Services;
- (e) The commissioner of the Department for Medicaid Services;
- (f) The commissioner of the Department of Corrections;
- (g) The commissioner of the Department of Juvenile Justice;
- (h) The commissioner of the Department of Education;
- (i) The commissioner of the Department of Vocational Rehabilitation;
- (j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;
- (k) The director of the Office of Family Resource and Youth Services Centers;
- (l) The executive director of the Office of Aging Services of the Cabinet for Health Services;
- (m) The executive director of the ***Office of Drug Control***[~~Kentucky Agency for Substance Abuse~~] Policy;
- (n) The executive director of the Criminal Justice Council;
- (o) The director of the Administrative Office of the Courts;
- (p) The chief executive officer of the Kentucky Housing Corporation;
- (q) The executive director of the Office of Transportation Delivery of the Transportation Cabinet;
- (r) The commissioner of the Department of Public Health;
- (s) Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;

(t) Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;

(u) A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(v) A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and

(w) An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.

(2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members designated in paragraphs (a) to (t) of subsection (1) of this section shall serve during their terms of office.

(4) Members and alternates designated in paragraphs (u) to (w) of subsection (1) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 123. KRS 213.061 is amended to read as follows:

(1) Upon notification by the Justice ***and Public Safety*** Cabinet that a child born in the Commonwealth is missing, the state registrar of vital statistics shall flag the birth certificate record of the child in such a manner that whenever a copy of the birth certificate or information regarding the birth record is requested, the state registrar shall be alerted to the fact that the certificate is that of a missing child.

(2) Upon notification by the Justice ***and Public Safety*** Cabinet that a missing child has been recovered, the state registrar shall remove the flag from the child's birth certificate record.

(3) In response to any inquiry for a copy of a flagged birth certificate of a missing child, the state registrar shall not provide a copy of the birth certificate except as approved by the Justice ***and Public Safety*** Cabinet.

(4) When a copy of a flagged birth certificate is requested in person, the state registrar or the designee accepting the request shall inform the person making the request that a copy of a certificate will be mailed to the requester. The state registrar shall, upon the departure of the requesting person, immediately notify the Justice ***and Public Safety*** Cabinet as to the request and the information obtained pursuant to this subsection.

(5) When a copy of a flagged birth certificate is requested in writing, the state registrar shall immediately notify the Justice ***and Public Safety*** Cabinet as to the request and shall provide a copy of the written request.

Section 124. KRS 216.787 is amended to read as follows:

(1) No agency providing services to senior citizens which are funded by the Department for Community Based Services of the Cabinet for Families and Children or the Office of Aging Services of the Cabinet for Health Services shall employ persons in a position which involves providing direct services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.

(2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.

(3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the Justice ***and Public Safety*** Cabinet for any applicant for employment prior to employing the applicant.

Section 125. KRS 216.789 is amended to read as follows:

(1) No long-term care facility as defined by KRS 216.535(1), nursing pool providing staff to a nursing facility, or assisted-living community shall knowingly employ a person in a position which involves providing direct services to a resident or client if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime.

(2) A nursing facility, nursing pool providing staff to a nursing facility, or assisted-living community may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor if the crime is not related to abuse, neglect, or exploitation of an adult.

(3) Each long-term care facility as defined by KRS 216.535(1), nursing pool providing staff to a nursing facility, or assisted-living community shall request all conviction information from the Justice ***and Public Safety*** Cabinet for any applicant for employment pursuant to KRS 216.793.

(4) The long-term care facility, nursing pool providing staff to a nursing facility, or assisted-living community may temporarily employ an applicant pending the receipt of the conviction information.

Section 126. KRS 216.793 is amended to read as follows:

(1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services, to the applicant for initial employment in an assisted-living community nursing facility, or nursing pool providing staff to a nursing facility, or in a position funded by the Department for Community Based Services of the Cabinet for Families and Children or the Office of Aging Services of the Cabinet for Health Services and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice ***and Public Safety*** Cabinet or the Administrative Office of the Courts. The Justice ***and Public Safety*** Cabinet or the Administrative Office of the Courts may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request.

Section 127. KRS 218A.435 is amended to read as follows:

(1) There is created a trust and revolving fund in the executive branch of state government to be known as the "Asset Forfeiture Trust Fund" referred to in this section as the "trust fund."

(2) The trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the agency which will receive disbursements from the trust fund as provided in this section.

(3) The trust fund shall be managed by the state Office for Investment and Debt Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund shall be administered and audited by the Justice ***and Public Safety*** Cabinet. The secretary of justice or his designee shall promulgate administrative regulations necessary to further the purposes of KRS 218A.405 to 218A.460.

(5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice Cabinet for costs associated with administration of the fund.

(6) The Justice ***and Public Safety*** Cabinet shall, upon advice from the Office for Investment and Debt Management, allocate the moneys in the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.

(7) The principal of the trust fund shall be distributed as follows:

    (a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;

    (b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for Health Services to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;

    (c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Department of Corrections to be used solely for programs related to drug enforcement and incarceration; and

    (d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice ***and Public Safety*** Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program-related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.

(8) The Attorney General, the secretary of the Cabinet for Health Services, the commissioner of the Department of Corrections, and the secretary of the Justice ***and Public Safety*** Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to their respective agencies shall be spent and the method by which those moneys shall be disbursed to local entities.

(9) On July 13, 1990, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(10) On July 13, 1990, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently

employed attend asset-forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset-forfeiture training.

(11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency and shall not be paid into the trust fund and shall not be considered for purposes of the limits established in subsection (12) of this section. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.

(12) Other provisions of law notwithstanding, the first fifty thousand dollars ($50,000) of forfeited coin or currency or of the proceeds from sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient. In addition, forty-five percent (45%) of all proceeds above fifty thousand dollars ($50,000) shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.

(13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

Section 128. KRS 222.211 is amended to read as follows:

(1) The cabinet shall, in conjunction with ***Office of Drug Control Policy***[~~KY-ASAP~~] and in furtherance of the strategic plan developed in ***Section 8 of this Act***[~~KRS 12.332~~], coordinate matters affecting tobacco addiction and alcohol and other drug abuse in the Commonwealth and shall assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of tobacco addiction and alcohol and other drug abuse within individuals, families, and communities; that the coordination of these matters shall be done in cooperation with public and private agencies, business, and industry; and that technical assistance, training, and consultation services shall be provided within budgetary limitations when required. The cabinet may promulgate administrative regulations under KRS Chapter 13A to carry out its powers and duties under this chapter. The cabinet shall utilize community mental health centers and existing facilities and services within the private sector when possible. The cabinet shall be responsible for assuring that the following services are available:

(a) Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of tobacco addiction and alcohol and other drug abuse related problems and enhancing the general level of health of the target groups. The purpose of the services shall be to provide individuals with the information and skills necessary to make healthy decisions regarding the use or nonuse of tobacco, alcohol, and other drugs as well as to influence environmental factors, such as social policies and norms which will support healthy lifestyle;

(b) Intervention services for the purpose of identifying, motivating, and referring individuals in need of tobacco addiction and alcohol and other drug abuse education or treatment services. Services may be provided in settings such as industry and business, schools, health, and social service agencies;

(c) Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs, or both, including necessary diagnostic and referral services. The services shall be provided in either a hospital or a licensed alcohol and other drug abuse program;

(d) Rehabilitation services offered on an inpatient or outpatient basis for the purposes of treating an individual's alcohol and other drug abuse problem. The services shall be provided in a licensed alcohol and other drug abuse program;

(e) Therapeutic services to family members of alcohol and other drug abusers for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially, and sometimes physically dependent on an alcohol or other drug abuser. The services shall be offered primarily on a outpatient basis;

(f) Inpatient psychiatric services for those alcohol and other drug abusers whose diagnosis reflects both serious mental health disturbances as well as alcohol and other drug abuse disorders;

(g) Training programs for personnel working in the field of prevention, intervention, and treatment of tobacco addiction and alcohol and other drug abuse problems; and

(h) Driving under the influence services to include assessment, education, and treatment for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.

(2) The cabinet shall comply with all policy recommendations of ***the Office of Drug Control Policy***[~~KY ASAP~~], and shall honor requests for information from the ***Office of Drug Control***[~~Kentucky Agency for Substance Abuse~~] Policy created under ***Section 8 of this Act***[~~KRS 12.330~~].

Section 129. KRS 224.46-560 is amended to read as follows:

The cabinet shall promulgate regulations establishing standards applicable to transporters of hazardous waste regarding record keeping, notification and compliance with the manifest system. The Transportation Cabinet and the Justice ***and Public Safety*** Cabinet shall cooperate with and assist the cabinet in implementing and enforcing the transportation provisions of any state hazardous waste regulations promulgated pursuant to this chapter. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets.

Section 130. KRS 237.100 is amended to read as follows:

(1) Upon receipt of notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, the Justice ***and Public Safety*** Cabinet shall make a reasonable effort to provide notice to the petitioner who obtained the domestic violence order issued under KRS 403.750 that the respondent to the order has attempted to purchase a firearm. The Justice Cabinet may contract with a private entity in order to provide notification.

(2) The notification shall be limited to a petitioner who has:

(a) Received a domestic violence protective order issued or reissued under KRS 403.750 on or after July 15, 2002;

(b) Received a domestic violence protective order that involves a respondent who is prohibited by 18 U.S.C. sec. 922(g)(8) from possessing a firearm; and

(c) Provided the Justice ***and Public Safety*** Cabinet or the entity with a request for notification.

(3) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities. Nothing in this subsection shall limit liability for negligence.

Section 131. KRS 237.110 is amended to read as follows:

(1) The Department of ***Kentucky*** State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of ***Kentucky*** State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court.

(2) The Department of ***Kentucky*** State Police, following the record check required by subsection (1) of this section, shall issue a license if the applicant:

(a) 1. Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application; or

2. Is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky, and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application;

(b) Is twenty-one (21) years of age or older;

(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(d)(1) or (g) or KRS 527.040;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Demonstrates competence with a firearm by completion of a firearms safety or training course or class offered or approved by the Department of Criminal Justice Training.

Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The

Department of Criminal Justice Training shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, ***Kentucky*** State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement;

(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and

(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.

(3) The Department of ***Kentucky*** State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.

(4) The Department of ***Kentucky*** State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.

(5) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, ***Kentucky*** State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of ***Kentucky*** State Police within five (5) working days. Twenty dollars ($20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

(a) The name, address, place and date of birth, gender, and Social Security number of the applicant;

(b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

(d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

(e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

(a) A completed application as described in subsection (5) of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation; and

(c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.

(7) The Department of ***Kentucky*** State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (6) of this section, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of ***Kentucky*** State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of ***Kentucky*** State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(8) The Department of ***Kentucky*** State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of ***Kentucky*** State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of ***Kentucky*** State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of ***Kentucky*** State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of ***Kentucky*** State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of ***Kentucky*** State Police of the loss or destruction. Failure to notify the Department of ***Kentucky*** State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the District Court. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of ***Kentucky*** State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(10) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) to the Department of ***Kentucky*** State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.

(11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(12) Not less than ninety (90) days prior to the expiration date of the license, the Department of ***Kentucky*** State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of ***Kentucky*** State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of ***Kentucky*** State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (5), (6), and (7) of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(14) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice ***and Public Safety*** Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(15) All moneys collected by the Department of ***Kentucky*** State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of ***Kentucky*** State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.

(16) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of ***Kentucky*** State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(17) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

(b) The Department of ***Kentucky*** State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of ***Kentucky*** State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of ***Kentucky*** State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(18) By March 1 of each year, the Department of ***Kentucky*** State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

(19) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:

(a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(c) Each concealed deadly weapon instructor or instructor trainer shall notify the Department of Criminal Justice Training not less than fourteen (14) days prior to the beginning of concealed deadly weapon applicant or concealed deadly weapon instructor training of the time, date, and location at which the class will be conducted. The department, upon the request of a firearms instructor trainer or certified firearms instructor, may permit a class to begin on less than fourteen (14) days' notice. The notice need not contain the names of the students. The notice may be made by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the application. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled but did not successfully complete the class, and which students enrolled and successfully completed the class which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;

(f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;

(g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than thirty (30) days after its receipt. Failure to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall be grounds for the Department of ***Kentucky*** State Police to revoke the person's concealed deadly weapon license, following a hearing conducted pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

(h) The department shall randomly inspect certified firearms instructor classes being conducted by firearms instructor trainers and shall randomly inspect applicant classes being conducted by firearms instructor trainers or certified firearms instructors to ascertain if the class is being conducted in conformity to the provisions of applicable statutes and administrative regulations and that the paperwork in the class matches the paperwork ultimately submitted by the firearms instructor trainer or certified firearms instructor for that same class. The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:

1. The number of random inspections;
2. The results of those inspections;
3. The number of deficiencies noted;
4. The nature of the deficiencies noted;
5. If a deficiency was noted, the categories of action taken by the department to either correct the deficiency or discipline the instructor, or a combination thereof;
6. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
7. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
8. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;

(i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of ***Kentucky*** State Police as a matter of law;

(j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and

(k) The provisions of this section shall be deemed to be retroactive to March 1, 2002, and the following shall be in effect:

1. Action to eliminate the firearms instructor trainer program as done by emergency administrative regulation is rescinded, the program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
2. The ***Department of*** Kentucky State Police may revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted pursuant to KRS Chapter 13B. Any action taken by the ***Department of*** Kentucky State Police, other than revoking a permit for voluntary admission of nonreceipt of training or receipt of insufficient training to revoke a concealed deadly weapon license of a person suspected of nonreceipt of training or receipt of insufficient training, between March 1, 2002, and July 15, 2002, is suspended until the conduct of a KRS Chapter 13B hearing after July 15, 2002; and
3. Any person who has received a training affidavit requiring the person to verify training conducted during a firearms instructor course or applicant course from the Department of Criminal Justice Training between March 1, 2002, and July 15, 2002, shall have the time to respond to the training affidavit extended to August 1, 2002. The department shall notify each person who has not, as of July 15, 2002, returned his or her training affidavit of the extension of time to file the affidavit.

Section 132. KRS 281.755 is amended to read as follows:

The[~~ commissioner and representatives of the~~] Department of ***Kentucky*** State Police ***and the Department of Kentucky Vehicle Enforcement*** may at any time or place make an inspection of any motor vehicle operating under the provisions of this chapter. They may enter into and upon any such motor vehicle for the purpose of ascertaining whether or not any provision of this chapter or any order or rule or regulation of the department relating to such motor vehicles has been violated. Willful refusal to stop any such motor vehicle, when ordered to do so by any representative of the Department ***of Kentucky State Police or the Department of Kentucky Vehicle Enforcement***, or to permit the representative to enter into or upon the motor vehicle for the purpose of inspection, shall be sufficient ground for the revocation or suspension of the certificate or permit of the motor carrier.

Section 133. KRS 281.757 is amended to read as follows:

(1) As used in this section:

(a) "Lights" means the lighting devices required on commercial vehicles having a declared gross weight in excess of ten thousand (10,000) pounds in accordance with 49 C.F.R. Part 393 and 49 C.F.R. Part 571; and

(b) "Reflectors" means the reflex reflectors and retroflective sheeting required on commercial vehicles having a declared gross weight in excess of ten thousand (10,000) pounds in accordance with 49 C.F.R. Part 393.

(2) A person shall not operate a commercial motor vehicle if the lights or reflectors are inoperable, missing, or are obscured by dirt, mud, or other debris.

(3) Law enforcement officers[~~ and the Transportation Cabinet~~] shall enforce violations of this section.

Section 134. KRS 281.770 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

(1) ***The Department of Kentucky Vehicle Enforcement is hereby created as a separate department within the Justice and Public Safety Cabinet.***

(2) The department shall be headed by a commissioner who shall report directly to the secreaty of the Justice and Public Safety Cabinet. The commissioner may commission employees of the department as peace officers for the purpose of enforcing the provisions of KRS Chapter 281, other state laws relating to motor carriers and for-hire carriers, as well as federal and local laws, ordinances, and administrative regulations relating to the same subject. Peace officers of the department shall also enforce vehicle licensure, motor vehicle operator, traffic, and criminal law violations.

(3) The primary responsibility of the department shall be the enforcement of federal, state, and local motor carrier, and for-hire carrier laws, administrative regulations, and ordinances.

(4) The Department of Kentucky Vehicle Enforcement shall have the following divisions:

(a) Division of Field Operations;

(b) Division of Special Operations; and

(c) Division of Administrative Services[~~The commissioner, Department of State Police, is hereby authorized to issue commissions to employees of the department as law enforcement officers, and such employees when so commissioned shall have all the powers of peace officers in respect to the enforcement of this chapter and all the statutes and regulations relating to motor vehicles operated as private or for-hire carriers.~~

~~(2) Peace officers commissioned as provided herein may be assigned additional duties in enforcing other provisions of law for specified limits of time during an emergency or time of special needs as determined by the commissioner in his discretion~~].

Section 135. KRS 281.771 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

(1) For the purposes of this section, the term "commissioner" means the commissioner of the Department of ***Kentucky***[~~Motor~~] Vehicle ***Enforcement***[~~Regulation~~].

(2) An employee commissioned pursuant to the provisions of ***Section 134 of this Act***[~~KRS 281.770~~] shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(3) Any person may prefer charges against a commissioned employee.

(4) A charge shall be:

(a) In writing;

(b) Filed with the office of the commissioner;

(c) Signed by the person making the complaint; and

(d) Set out with clarity and distinction.

(5) (a) The commissioner shall review the charges.

(b) If the commissioner determines that there is probable cause, he shall file charges against a commissioned employee whom he believes is guilty of misconduct that justifies his removal or discipline.

(6) Within five (5) days of the filing of the charges, the commissioner shall:

(a) Personally deliver a copy of the charges to the commissioned employee; or

(b) Send a copy of the charges to the commissioned employee by certified mail, return receipt requested.

(7) Within five (5) days of receipt of the charges, the commissioned employee may:

(a) Demand an administrative hearing; or

(b) Admit the truth of the charges in whole or in part.

(8) If the commissioned employee admits the truthfulness of the charges, the commissioner shall dismiss, demote, suspend, or otherwise penalize the employee as warranted by the seriousness of the charges.

(9) If the commissioned employee denies the charges and demands a hearing within the time specified in subsection (7) of this section, he shall notify the commissioner in writing.

(10) Upon receipt of the demand for hearing, the commissioner shall arrange for an administrative hearing before a trial board to be constituted as provided in ***Section 136 of this Act***[~~KRS 281.772~~]. The hearing shall be conducted in accordance with KRS Chapter 13B.

(11) (a) If the commissioner has probable cause to believe that a commissioned employee is guilty of misconduct, he may immediately suspend the employee from duty, or from both pay and duty, pending trial.

(b) If an employee is suspended, he shall not be returned to duty or be paid until a final order is rendered by the trial board.

(12) After hearing the charges, the trial board shall fix the punishment of a commissioned employee found guilty of one (1) or more charges, by:

(a) Reprimand;

(b) Suspension for a period not to exceed six (6) months;

(c) Reducing the grade if the commissioned employee's classification warrants it;

(d) Combining any two (2) or more of the punishments;

(e) Reducing the monthly salary of the commissioned employee by not more than twenty percent (20%) for not more than six (6) months; or

(f) Dismissing him from the service of the department.

Section 136. KRS 281.772 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

(1) For the purpose of hearing charges against any commissioned employee, there is created a trial board, which shall consist of the commissioner ***of the Department of Kentucky Vehicle Enforcement*** and a panel of ten (10) commissioned employees appointed by the commissioner. The commissioner shall designate from the panel not less than three (3) nor more than seven (7) members to hear charges against any commissioned employee. Hearings before the trial board shall be conducted in accordance with KRS Chapter 13B.

(2) The commissioned employees appointed to the trial board shall:

(a) Fulfill the duties of the board in addition to their other duties; and

(b) Be reimbursed for travel and necessary expenses pursuant to the provisions of KRS 18A.200.

(3) (a) A defendant may, for cause, challenge the right of any member of the trial board to hear charges against him.

(b) If the other members of the trial board determine that the challenge is justifiable, the trial board member in question shall be:

1. Excused from hearing the charges, and

2. Replaced by another member of the trial board.

(4) The rights conferred upon a commissioned employee by this section shall not accrue until he has been employed for a period of one (1) year.

(5) No commissioned employee is entitled to a hearing as provided in this section unless his suspension is for more than twenty (20) days, or his pay is reduced more than ten percent (10%); but if the employee receives more than twenty (20) days suspension or a reduction in salary of more than ten percent (10%) within a period of one (1) year, he shall have the right to a hearing.

(6) The dismissal, demotion, suspension, or other penalization of a noncommissioned employee shall comply with the provisions of KRS 18A.095 and 18A.100.

(7) Any commissioned employee found guilty by the trial board of any charge under the provisions of ***Section 135 of this Act***[~~KRS 281.771~~] shall have the right to appeal to Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 137. KRS 281.880 is amended to read as follows:

(1) The Department ***of Vehicle Regulation in the Transportation Cabinet*** shall establish a motor carrier safety management audit program applicable to private or for-hire, intrastate or interstate motor carriers. The Department ***of Kentucky Vehicle Enforcement*** may perform safety inspections on vehicles operated by a motor carrier on public highways and may enter onto property owned, leased, controlled, or operated by a motor carrier to inspect any of its vehicles or inspect or copy records relating to vehicle safety, maintenance, or financial responsibility.

(2) The department may issue motor carrier safety ratings to any private or for-hire motor carrier which is based in Kentucky, has a terminal in Kentucky, or operates consistently in Kentucky. The safety rating scale and factors determining a carrier's safety rating shall be established by administrative regulation and shall be compatible with the scale and factors established by the Federal Highway Administration in Title 49 of the United States Code of Federal Regulations, Part 385, relating to safety ratings, in effect as of July 13, 1990, or as amended after that date.

(3) The department may determine the safety fitness of a motor carrier and may require the maintenance of or upgrade to a satisfactory safety rating.

Section 138. KRS 329.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Detection of deception examiner," referred to in this chapter as "examiner," means any person, other than a trainee, who uses any device or instrument to test or question individuals for the purpose of detecting deception. Before a person may be licensed as an examiner, he must have at least one (1) year's experience in detection of deception. Before an examiner may supervise a trainee, he must have at least two (2) years' experience in detection of deception.

(2) "Trainee" means any person who has successfully completed a polygraph examiner's course at a polygraph examiner's

school approved by the cabinet, but who has not been awarded the final certificate of proficiency or graduate certificate from the school, or any person, not a licensed examiner, who administers detection of deception examinations under the direct, personal supervision and control of a licensed examiner who is licensed by this state. No examiner may have more than two (2) trainees under his supervision and control at any one (1) time.

(3) "Person" means any natural person, partnership, association, corporation, or trust.

(4) "Cabinet" means the Justice ***and Public Safety*** Cabinet of the Commonwealth of Kentucky.

(5) "Secretary" means the secretary of the Justice ***and Public Safety*** Cabinet of the Commonwealth of Kentucky.

(6) "Polygraph" means an instrument which records permanently and simultaneously a subject's cardiovascular and respiratory patterns and other physiological changes pertinent to the detection of deception.

(7) "Polygraph examiner" means the same as detection of deception examiner.

Section 139. KRS 350.052 is amended to read as follows:

(1) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall be empowered to arrest, without a warrant, any person detected by him to be violating the provisions of this chapter which constitute criminal offenses.

(2) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall have the authority to use physical force, which he believes necessary, in accomplishing any lawful arrest for a criminal offense; however, deadly physical force may be used only when the officer is authorized to make an arrest, the arrest is for a felony involving the threatened use of physical force likely to cause death or serious physical injury, and the officer believes that the person to be arrested is likely to endanger human life unless arrested without delay.

(3) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall meet the qualifications set forth in KRS 61.300(1), (4), and (5) and shall prior to appointment:

- (a) Successfully complete not fewer than eighty (80) hours of training in a program provided by the Department of Criminal Justice Training, Justice ***and Public Safety*** Cabinet, and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; and
- (b) Demonstrate in written and practical examinations approved by the Department of Criminal Justice ***and Public Safety*** Training, Justice Cabinet, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid.

Section 140. KRS 403.700 is amended to read as follows:

(1) The Governor's Council on Domestic Violence and Sexual Assault is created and established for the purpose of planning and direction of legal, protection, and support services related to domestic violence and sexual assault, and to increase the awareness of all Kentuckians regarding the prevalence and impact of these crimes.

(2) Members of the council shall include:

- (a) The Attorney General or a designee;
- (b) The secretary of the Cabinet for Families and Children or a designee;
- (c) The secretary of the Cabinet for Health Services or a designee;
- (d) The secretary of the Justice ***and Public Safety*** Cabinet or a designee;
- (e) The public advocate or a designee;
- (f) The executive director of the Governor's Office of Child Abuse and Domestic Violence Services;
- (g) The executive director of the ***Office of Legislative and Intergovernmental Services of the Justice and Public Safety Cabinet***[~~Kentucky Criminal Justice Council~~];
- (h) The executive director of the Commission on Women;
- (i) At the direction of the Chief Justice of the Supreme Court, the director of the Administrative Office of the Courts;
- (j) One (1) Circuit Court Judge, one (1) family court judge, and one (1) District Court Judge, who shall be appointed by the Chief Justice of the Supreme Court;
- (k) The executive director of the Kentucky Domestic Violence Association;
- (l) The president of the Kentucky Domestic Violence Association or a designee;
- (m) The executive director of the Kentucky Association of Sexual Assault Programs;
- (n) The president of the Kentucky Association of Sexual Assault Programs or a designee;
- (o) Two (2) members of the Senate who shall be appointed by the President of the Senate;
- (p) Three (3) members of the House of Representatives who shall be appointed by the Speaker of the House; and
- (q) The following members, who shall be appointed by the Governor. To be eligible for appointment under this paragraph, a person shall have an understanding of, and demonstrated commitment to, addressing crimes involved in domestic or sexual violence:
    1. One (1) county attorney;

2. One (1) Commonwealth's attorney;
3. One (1) Circuit Court Clerk;
4. One (1) sheriff;
5. One (1) peace officer;
6. Two (2) representatives of local domestic violence coordinating councils or sexual assault response teams;
7. One (1) advocate for adult victims of domestic or sexual violence;
8. One (1) advocate for child witnesses of domestic or sexual violence;
9. One (1) physician;
10. One (1) sexual assault nurse examiner;
11. One (1) mental health professional with demonstrated expertise in treating offenders;
12. One (1) employee of the Department for Community Based Services who provides direct services to victims of domestic violence;
13. One (1) person employed as a probation or parole officer; and
14. Two (2) citizen at-large members.

(3) The Governor shall appoint two (2) co-chairs and two (2) vice chairs of the council. One (1) of the vice chairs shall be a council member who is a criminal justice professional. The co-chairs and vice chairs shall serve for a term of one (1) year after which they may be reappointed by the Governor.

(4) Council members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment. Members shall not serve longer than two (2) consecutive four (4) year terms.

(5) The council shall establish an executive committee, the membership of which shall be named by the co-chairs of the council.

(6) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Promoting coordination among agencies and officials responsible for addressing domestic violence and sexual assault;

(b) Determining the availability of services for victims, children who witness domestic violence or sexual assault, and offenders;

(c) Facilitating the development of local domestic violence councils and sexual assault response teams that shall include publication of model protocols, training, and technical assistance;

(d) Promoting community awareness and the prevention of domestic and sexual violence;

(e) Providing assistance to the Attorney General, the Administrative Office of the Courts, the Justice ***and Public Safety*** Cabinet, the Cabinet for Families and Children, and the Cabinet for Health Services in the development of training curricula, treatment programs, and model policies related to domestic violence and sexual assault;

(f) Reviewing and analyzing data and information relating to domestic violence and sexual assault from existing sources including, but not limited to, the ***Department of*** Kentucky State Police, the Cabinet for Families and Children, the Cabinet for Health Services, the Department of Corrections, and the Administrative Office of the Courts;

(g) Recommending to the appropriate entity changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards relating to domestic violence and sexual assault; and

(h) Preparing a biennial report to be submitted no later than July 1 of every odd-numbered year to the Governor, the Legislative Research Commission, and the Chief Justice of the Supreme Court.

(7) The council shall establish any committees necessary to carry out its duties.

(8) The council shall be attached to the Governor's Office of Child Abuse and Domestic Violence Services for administrative purposes. Members of the council shall be eligible to receive actual and reasonable travel expenses.

(9) The secretary of the Justice ***and Public Safety*** Cabinet, the secretary of the Cabinet for Health Services, and the secretary of the Cabinet for Families and Children shall provide the necessary staff to assist the council in carrying out its duties and responsibilities.

Section 141. KRS 403.737 is amended to read as follows:

All forms, affidavits, emergency protective orders, domestic violence orders, orders amending an existing protective order, or other orders issued pursuant to KRS 403.715 to 403.785, or the laws of another jurisdiction which are entitled to full faith and credit in Kentucky pursuant to the provisions of 18 U.S.C. sec. 2265, which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts after consultation with the Justice ***and Public Safety*** Cabinet. If the provisions of a protective order are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.

Section 142. KRS 403.784 is amended to read as follows:

(1) The Justice ***and Public Safety*** Cabinet shall develop initial training courses and continuing education courses, designed to be provided at least once every two (2) years, for law enforcement officers, police dispatchers, and probation or parole officers concerning the dynamics of domestic violence, child physical and sexual abuse, rape, effects of crime on adult and child victims, legal remedies for protection, lethality and risk issues, profiles of offenders, model protocols for addressing domestic violence, child abuse, rape, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with legal, victims services, victim advocacy, and mental health professionals with an expertise in domestic violence, child abuse, and rape.

(2) All law enforcement agencies shall provide initial training and, at least once every two (2) years, continuing education courses, developed by the Justice ***and Public Safety*** Cabinet pursuant to subsection (1), to all officers employed by them.

(3) The Justice ***and Public Safety*** Cabinet shall provide initial training and, at least once every two (2) years, continuing education courses under subsection (1) of this section for police dispatchers and probation or parole officers.

Section 143. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) (a) Any peace officer ***certified pursuant to KRS 15.380,*** may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.

(b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

(3)[~~For purposes of subsection (2) of this section, a "peace officer" is:~~

~~(a) A full-time sworn officer of the Kentucky State Police, a full-time sworn officer of the Kentucky Horse Park, a commissioned full-time state park ranger, a full-time officer of the Division of Law Enforcement within the Department of Fish and Wildlife Resources who is exercising authority under KRS Chapter 235, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city county policeman, a duly elected sheriff, or a full-time paid deputy sheriff; or~~

~~(b) A part-time paid law enforcement officer, or a special paid deputy, who has completed a Kentucky law enforcement council approved education and training program referred to in KRS 403.784.~~

~~(c)~~] The provisions of this section relating to training shall not apply to a deputy sheriff who is subject to the training requirements specified in KRS 70.263(3).

(4) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(5) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

(6) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

Section 144. KRS 431.105 is amended to read as follows:

Notwithstanding any other statutory provisions to the contrary, all fines and forfeitures recovered in any court as a result of a conviction for the violation of any of the provisions of KRS 189.221, subsection (1) of 189.222, or 189.270, which violation occurred on a state-maintained highway and arrest was made by any peace officer other than a member of the Department of ***Kentucky*** State Police, ***Department of Kentucky Vehicle Enforcement,*** Department of Highways, or Department of Vehicle Regulation, shall inure to the benefit of the state, shall be paid to the State Treasurer for the use and benefit of the Department of Highways, and no part shall be returned to the local governmental units from which they were sent. These fines and forfeitures shall be paid into the State Treasury by the court collecting same and within thirty (30) days after imposition and collection.

Section 145. KRS 431.4505 is amended to read as follows:

The Justice ***and Public Safety*** Cabinet shall modify the uniform citation form to include spaces where the peace officer may include:

(1) The alcohol concentration in cases of violation of KRS 189A.010; and

(2) Whether the defendant did take, refused to take, or was unable to take for some reason (to be specified on the citation), the alcohol concentration or drug test or tests specified by the peace officer following an arrest for violation of KRS 189A.010.

Section 146. KRS 431.650 is amended to read as follows:

(1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.

(2) The commission shall be comprised of the following members:

  (a) The commissioner of the Department for Community Based Services or a designee;

  (b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;

  (c) One (1) social service worker who is employed by the Department for Community Based Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for Families and Children;

  (d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for Health Services;

  (e) The commissioner of the ***Department of*** Kentucky State Police or a designee;

  (f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice ***and Public Safety*** Cabinet;

  (g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;

  (h) Two (2) employees of the Attorney General's Office who shall be appointed by the Attorney General;

  (i) One (1) Commonwealth's attorney who shall be appointed by the Attorney General;

  (j) The commissioner of the Department of Education or a designee;

  (k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education;

  (l) The executive director of the Governor's Office of Child Abuse and Domestic Violence Services or a designee;

  (m) One (1) representative of a children's advocacy center who shall be appointed by the Governor;

  (n) One (1) physician appointed by the Governor; and

  (o) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.

(3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The commission shall elect a chairperson annually from its membership.

Section 147. KRS 433.234 is amended to read as follows:

(1) Willful concealment of unpurchased merchandise of any store or other mercantile establishment on the premises of such store shall be prima facie evidence of an intent to deprive the owner of his property without paying the purchase price therefor.

(2) All city and county law enforcement agencies shall cause to be made a photograph, a set of fingerprints and a general descriptive report of all persons except juveniles arrested for theft through an act of shoplifting. If convicted, two (2) copies of each item shall be forwarded within thirty (30) days to the Department of ***Kentucky*** State Police of the Justice ***and Public Safety*** Cabinet.

Section 148. KRS 439.250 is amended to read as follows:

As used in KRS 439.250 to 439.560, unless the context requires otherwise:

(1) "Secretary" means the secretary of the Justice ***and Public Safety*** Cabinet;

(2) "Commissioner" means the commissioner of the Department of Corrections;

(3) "Department" means the Department of Corrections;

(4) "Deputy commissioner" means the deputy commissioner of the ***Office***[~~Division~~] of Adult Institutions or the deputy commissioner of the ***Office***[~~Division~~] of Community Services and[~~ Local~~] Facilities of the Department of Corrections;

(5) "Board" means the Parole Board created by KRS 439.320.

Section 149. KRS 439.320 is amended to read as follows:

(1) The Governor shall appoint a Parole Board consisting of seven (7) full-time members and two (2) part-time members, as

described in subsection (7) of this section, to be confirmed by the Senate in accordance with KRS 11.160. Each of the two (2) part-time members shall be from a different political party. The Governor shall make each appointment for full-time and part-time members from a list of three (3) names given to him by the ***Kentucky State Corrections*** Commission[~~on Correction and Community Service~~]. Each member appointed to the board shall have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than five (5) board members shall be of the same political party. The board shall be attached to the Justice ***and Public Safety*** Cabinet for administrative purposes only; the Department of Corrections shall provide any clerical, stenographic, administrative, and expert staff assistance the board deems necessary to carry out its duties.

(2) The Governor shall name one (1) full-time member as chairman of the board.

(3) The full-time members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars ($1,000) per year for his services. Their terms of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his term at which time the Governor shall name his successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term, the Governor may name a successor to serve for the remainder of the unexpired term.

(4) The organization of the board shall be determined by the chairman and a quorum of the board shall be as follows:

(a) For parole hearings at which the inmate appears before the board, three (3) members; and

(b) For all other business, four (4) members. A decision by any three (3) member panel in a parole hearing shall be final only if it is unanimous; otherwise the case must be reviewed and voted on by not less than four (4) members of the board. Parole decisions for inmates who do not appear before the board shall be reviewed and voted on by not less than four (4) members of the board.

(5) The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, he shall give the member a written copy of the charges against him and shall fix the time when he can be heard in his defense, which shall not be less than ten (10) days thereafter. Upon removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.

(6) Upon the expiration of the terms of office of the two (2) full-time board members whose terms expire May 23, 1994, the Governor shall appoint two (2) full-time members to serve terms which will expire June 30, 1995. Thereafter, appointments to these two (2) full-time terms shall be for four (4) years and shall be filled as provided for in subsection (3) of this section. The Governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.

(7) The part-time members may participate in considering the grant or revocation of parole at the request of the chairman. No more than one (1) part-time Parole Board member shall serve on any panel of the board as set forth in subsection (4) of this section. The part-time Parole Board member called upon to serve shall be paid at a per diem rate equal to the per diem rate for the salary of a newly appointed full-time member and shall receive necessary travel expenses. The part-time Parole Board member shall serve for a period of four (4) years from the date of appointment and may be reappointed.

(8) The office of executive director of the Parole Board is created. The office shall be headed by an executive director who shall be appointed by and directly responsible to the secretary of the Justice ***and Public Safety*** Cabinet in matters relating to administration. The executive director shall be responsible for the support services to the Parole Board in the area of financial, personnel, and facilities management; shall provide recommendations on administrative issues affecting the board to the secretary of the Justice Cabinet, the chairman of the Parole Board, and Parole Board members; shall review and draft legislation and promulgate administrative regulations for the board; and shall review parole data and conduct long-range planning as relevant to the planning needs of the board.

Section 150. KRS 439.470 is amended to read as follows:

(1) The commissioner shall ***promulgate administrative regulations***[~~have the power and duty to make rules~~] for the conduct of persons placed on probation or parole, except ***that*** the commissioner shall not ***promulgate***[~~make~~] any ***administrative regulation***[~~rule~~] which conflicts with the conditions of probation imposed by the court or conditions of release imposed by the board.

(2) The commissioner may utilize an approved monitoring device as defined in KRS 532.200(5) in the supervision of persons placed on probation or parole and to impose a reasonable fee on the probationer or parolee, as a condition of probation or parole, for equipment usage.

(3) The commissioner, or his designee shall:

(a) Be responsible for any reports of investigation and supervision as may be requested by the board or the courts;

(b) Divide the ***Commonwealth***[~~state~~] into districts and assign probation and parole officers to serve in the various districts and courts;

(c) Direct the work of the officers and other employees assigned to him;

(d) Formulate methods of investigation, supervision, record keeping, and reports;

(e) Conduct training courses for the staff;

(f) Negotiate with public or private groups or institutions for further training of employees and authorize the expenditure of funds for that purpose when needed;

(g) Develop policies on probation and parole work in the light of other welfare administration policies.

Section 151. KRS 439.580 is amended to read as follows:

As used in KRS 439.590 to 439.630, unless the context otherwise requires:

(1) "Secretary" means the secretary of the Justice ***and Public Safety*** Cabinet;

(2) "Commissioner" means the commissioner of the Department of Corrections;

(3) "Department" means the Department of Corrections;

(4) "Facility" means the community correctional center; and

(5) "Relative" means a spouse; child, including step-child, adopted child or child as to whom the prisoner, though not a biological parent, has acted in the place of a parent; parent including a person who, though not a biological parent, has acted in the place of a parent; brother; sister; or grandparents.

Section 152. KRS 620.045 is amended to read as follows:

(1) The secretaries of the Cabinet for Families and Children, the Cabinet for Health Services, and the Justice ***and Public Safety*** Cabinet are authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional children's advocacy centers.

(2) To be eligible for grants from any state government entity, a children's advocacy center shall meet the statutory definition of a children's advocacy center as provided in this chapter and shall operate consistent with administrative regulations promulgated by the Cabinet for Families and Children in accordance with KRS Chapter 13A.

Section 153. The following KRS sections are repealed:

15A.042 Office of Criminal Justice Council -- Divisions -- Duties -- Executive director.

15A.050 General counsel.

15A.120 Transfer of functions to cabinet.

15A.130 Transfer of funds, credits, assets, etc., to cabinet.

15A.140 Existing rules and regulations effective until modified or repealed.

15A.170 Administrative support services -- Other related programs.

15A.180 Retention and protection of reports, documents, records, etc.

17.080 Justice Cabinet may make rules and direct proceedings.

17.1531 Study on racial bias in capital sentencing.

30A.055 Automated warrant system.

403.783 Model law enforcement domestic violence policy and procedures manual --Distribution -- Agency submission to Justice Cabinet -- Assistance by cabinet when policy inadequate.

439.302 Commission on Correction and Community Service -- Appointment -- Terms -- Expenses.

439.304 Meetings, powers, and duties of commission.

439.306 Authority of commission and members.

Section 154. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 155. KRS 12.028 or any other provision of law to the contrary notwithstanding, the General Assembly confirms the portion of the Governor's Executive Order 2004-730, dated July 9, 2004, relating to the Justice and Public Safety Cabinet, and the Governor's Executive Order 2004-994, dated September 8, 2004, to the extent they are not otherwise confirmed or superseded by this Act.

SB 46 was read for the first time by title and sponsor only and placed in the Calendar.

SB 46 is as follows:

SB 46, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education~~[, Arts, and Humanities]~~ Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 11.182 is amended to read as follows:

(1) The membership of the commission shall consist of forty-eight (48) members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under KRS 11.180(1).

(a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Tourism Development Cabinet; secretary of the Cabinet for Families and Children; secretary of the Cabinet for Health Services; ***commissioner of the Department of Workforce Investment***~~[secretary of the Cabinet for Workforce Development]~~; secretary of the Education~~[, Arts, and Humanities]~~ Cabinet; commissioner of the Department of Agriculture; president of the Council on Postsecondary Education; president of the Kentucky Community and Technical College System; commissioner of the Department of Education; commissioner of the Department for Local Government; executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development; state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.

(b) Members appointed by the Governor shall be:

1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and member of the state's judicial branch, all of whom shall be currently serving in the Appalachian region of the Commonwealth. The members who are a representative, a senator, and a representative of the judicial branch shall serve in a nonvoting capacity;

2. Nine (9) at-large members; and

3. One (1) member representing the Community Action Agencies of Appalachian Kentucky.

(c) Members appointed by and representing certain entities shall be: two (2) members of the Kentucky Appalachian Advisory Council; one (1) member of the University of Kentucky Office of Management and Budget; one (1) member from the Christian Appalachian Project; one (1) member appointed by the United States Representative from the Fifth Congressional District; and one (1) member appointed by the East Kentucky Leadership Foundation's board of directors.

(2) Members listed in subsection (1)(a) and (b)1. of this section shall serve during their terms of office or appointment. Members listed in subsection (1)(b)2., (1)(b)3., and (1)(c) of this section shall serve four (4) year staggered terms and may be reappointed.

(3) Members of the commission who are not state employees shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.

(4) Each member of the commission may designate in writing over his signature an alternate with full authority, in the absence of the designating member for any reason, to attend any properly convened meeting of the commission and to participate in

the consideration of any business and transactions of the commission. Any designation of an alternate may, in the discretion of the designating member, be limited to be effective only for a designated meeting or only for specified business. An alternate shall not be entitled to vote upon any business or transactions of the commission.

Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.

(e) Office of the Secretary.

(f) Offices of the Deputy Secretaries.

(g) Office of General Counsel.

(h) Division of Kentucky State Medical Examiners Office.

(i) Parole Board.

(j) Kentucky State Corrections Commission.

(k) Commission on Correction and Community Service.

2. Education[~~, Arts, and Humanities~~] Cabinet:

(a) *Office of the Secretary.*

(b) Office of Legal Services.

1. Client Assistance Program.

(c) Office of Communication.

(d) Office of Legislative and Intergovernmental Affairs.

(e) Office of Budget and Administration.

1. Division of Human Resources.

2. Division of Administrative Services.

3. Division of Technology Services.

(f) Board of Directors for the Center for School Safety.

(g) Council on Postsecondary Education.
(h) Department of Education.
    1. Kentucky Board of Education.
(i) Department for Libraries and Archives.
(j) Department of Workforce Investment.
    1. Office for the Blind.
    2. Office of Vocational Rehabilitation.
    3. Office of Career and Technical Education.
    4. Office of Employment and Training.
(k) Foundation for Adult Education.
(l) Foundation for Workforce Development.
(m) Kentucky Department for the Blind State Rehabilitation Council.
(n) Kentucky Technical Education Personnel Board.
(o) Kentucky Workforce Investment Board.
(p) Statewide Council for Vocational Rehabilitation.
(q) Statewide Independent Living Council.
(r) Unemployment Insurance Commission.
(s) Education Professional Standards Board.
    1. Division of Educator Preparation.
    2. Division of Certification.
    3. Division of Provisional Learning and Assessment.
    4. Division of Legal Services.
(t) Governor's Scholars Program.
(u) Kentucky Commission on the Deaf and Hard of Hearing.
(v) Kentucky Educational Television.
(w) Kentucky Environmental Education Council.
(x) Martin Luther King Commission[~~Department of Education.~~
    ~~(1) Kentucky Board of Education.~~
~~(b) Department for Libraries and Archives.~~
~~(c) Kentucky Arts Council.~~
~~(d) Kentucky Educational Television.~~
~~(e) Kentucky Historical Society.~~
~~(f) Kentucky Teachers' Retirement System Board of Trustees.~~
~~(g) Kentucky Center for the Arts.~~
~~(h) Kentucky Craft Marketing Program.~~
~~(i) Kentucky Commission on the Deaf and Hard of Hearing.~~
~~(j) Governor's Scholars Program.~~
~~(k) Governor's School for the Arts.~~
~~(l) Operations and Development Office.~~
~~(m) Kentucky Heritage Council.~~
~~(n) Kentucky African-American Heritage Commission.~~
~~(o) Board of Directors for the Center for School Safety~~].

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.

- (g) Office of Information Services.
- (h) Office of Inspector General.

4. Transportation Cabinet:
    - (a) Department of Highways.
        1. Office of Program Planning and Management.
        2. Office of Project Development.
        3. Office of Construction and Operations.
        4. Office of Intermodal Programs.
        5. Highway District Offices One through Twelve.
    - (b) Department of Vehicle Regulation.
    - (c) Department of Administrative Services.
    - (d) Department of Fiscal Management.
    - (e) Department of Rural and Municipal Aid.
    - (f) Department of Human Resources Management.
    - (g) Office of the Secretary.
    - (h) Office of General Counsel and Legislative Affairs.
    - (i) Office of Public Affairs.
    - (j) Office of Transportation Delivery.
    - (k) Office of Minority Affairs.
    - (l) Office of Policy and Budget.
    - (m) Office of Technology.
    - (n) Office of Quality.
    - (o) Office of the Transportation Operations Center.
5. Cabinet for Economic Development:
    - (a) Department of Administration and Support.
    - (b) Department for Business Development.
    - (c) Department of Financial Incentives.
    - (d) Department of Community Development.
    - (e) Department for Regional Development.
    - (f) Tobacco Research Board.
    - (g) Kentucky Economic Development Finance Authority.
6. Environmental and Public Protection Cabinet:
    - (a) Public Service Commission.
    - (b) Department of Insurance.
    - (c) Department of Housing, Buildings and Construction.
    - (d) Department of Financial Institutions.
    - (e) Department of Mines and Minerals.
    - (f) Department of Public Advocacy.
    - (g) Department of Alcoholic Beverage Control.
    - (h) Kentucky Horse Racing Authority.
    - (i) Board of Claims.
    - (j) Crime Victims Compensation Board.
    - (k) Kentucky Board of Tax Appeals.
    - (l) Office of Petroleum Storage Tank Environmental Assurance Fund.
    - (m) Department of Charitable Gaming.
    - (n) Mine Safety Review Commission.
7. Cabinet for Families and Children:
    - (a) Department for Community Based Services.

(b) Department for Disability Determination Services.

(c) Public Assistance Appeals Board.

(d) Office of the Secretary.

  (1) Kentucky Commission on Community Volunteerism and Service.

(e) Office of the General Counsel.

(f) Office of Program Support.

(g) Office of Family Resource and Youth Services Centers.

(h) Office of Technology Services.

(i) Office of the Ombudsman.

(j) Office of Human Resource Management.

8. Cabinet for Health Services.

(a) Department for Public Health.

(b) Department for Medicaid Services.

(c) Department for Mental Health and Mental Retardation Services.

(d) Kentucky Commission on Children with Special Health Care Needs.

(e) Office of Certificate of Need.

(f) Office of the Secretary.

(g) Office of the General Counsel.

(h) Office of the Inspector General.

(i) Office of Aging Services.

9. Finance and Administration Cabinet:

(a) Office of Financial Management.

(b) Office of the Controller.

(c) Department for Administration.

(d) Department of Facilities Management.

(e) State Property and Buildings Commission.

(f) Kentucky Pollution Abatement Authority.

(g) Kentucky Savings Bond Authority.

(h) Deferred Compensation Systems.

(i) Office of Equal Employment Opportunity Contract Compliance.

(j) Office of Capital Plaza Operations.

(k) County Officials Compensation Board.

(l) Kentucky Employees Retirement Systems.

(m) ***Kentucky Teachers' Retirement System Board of Trustees.***

(n) Commonwealth Credit Union.

(o)[~~(n)~~] State Investment Commission.

(p)[~~(o)~~] Kentucky Housing Corporation.

(q)[~~(p)~~] Governmental Services Center.

(r)[~~(q)~~] Kentucky Local Correctional Facilities Construction Authority.

(s)[~~(r)~~] Kentucky Turnpike Authority.

(t)[~~(s)~~] Historic Properties Advisory Commission.

(u)[~~(t)~~] Kentucky Tobacco Settlement Trust Corporation.

(v)[~~(u)~~] Eastern Kentucky Exposition Center Corporation.

(w)[~~(v)~~] State Board for Proprietary Education.

10. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.

13.[~~Cabinet for Workforce Development:~~
~~(a) Department for Adult Education and Literacy.~~
~~(b) Department for Technical Education.~~
~~(c) Department of Vocational Rehabilitation.~~
~~(d) Department for the Blind.~~
~~(e) Department for Employment Services.~~
~~(f) Kentucky Technical Education Personnel Board.~~
~~(g) The Foundation for Adult Education.~~
~~(h) Department for Training and Reemployment.~~
~~(i) Office of General Counsel.~~
~~(j) Office of Communication Services.~~
~~(k) Office of Workforce Partnerships.~~
~~(l) Office of Workforce Analysis and Research.~~
~~(m) Office of Budget and Administrative Services.~~
~~(n) Office of Technology Services.~~
~~(o) Office of Quality and Human Resources.~~
~~(p) Unemployment Insurance Commission.~~

~~14.~~] Personnel Cabinet:
(a) Office of Administrative and Legal Services.

(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2.[~~Council on Postsecondary Education.~~
~~3.~~] Department for Local Government.
3.[~~4.~~] Kentucky Commission on Human Rights.
4.[~~5.~~] Kentucky Commission on Women.
5.[~~6.~~] Department of Veterans' Affairs.
6.[~~7.~~] Kentucky Commission on Military Affairs.
7.[~~8.~~] The Governor's Office for Technology.
8.[~~9.~~] Commission on Small Business Advocacy.
[~~10. Education Professional Standards Board.~~]

Section 4. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1)[~~Council on Postsecondary Education;~~
~~(2)~~] Department of Military Affairs;
(2)[~~(3)~~] Department for Local Government;
(3)[~~(4)~~] Kentucky Commission on Human Rights;
(4)[~~(5)~~] Kentucky Commission on Women;
(5)[~~(6)~~] Kentucky Commission on Military Affairs;
(6)[~~(7)~~] Kentucky Coal Council;
(7)[~~(8)~~] Governor's Office of Child Abuse and Domestic Violence Services;
(8)[~~(9)~~] Governor's Office for Technology;
(9)[~~(10)~~] Office of Coal Marketing and Export;
(10)[~~(11)~~] Agricultural Development Board;
(11)[~~(12)~~] Commission on Small Business Advocacy;
[~~(13) Office of Early Childhood Development;~~]
(12)[~~(14)~~] Kentucky Agency for Substance Abuse Policy;
[~~(15) Education Professional Standards Board;~~] and
(13)[~~(16)~~] Kentucky Agricultural Finance Corporation.

Section 5. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education[~~, Arts, and Humanities~~] Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6) Public Protection and Regulation Cabinet.

(7) Cabinet for Health Services.

(8) Cabinet for Families and Children.

(9) Finance and Administration Cabinet.

(10) Tourism Development Cabinet.

(11) Revenue Cabinet.

(12) Labor Cabinet.

(13)[~~ Cabinet for Workforce Development.~~

~~(14)~~] Personnel Cabinet.

Section 6. KRS 12.332 is amended to read as follows:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. KY-ASAP shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) Observe programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Department of Agriculture, the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education[~~, Arts, and Humanities~~] Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco

addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) Promulgate any administrative regulations necessary to implement KRS 12.330 to 12.334; and

(20) Report to the Legislative Research Commission and Governor by October 1, 2000, regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 7. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

- (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
- (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
- (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
- (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
- (e) Administrative hearings conducted by the legislative and judicial branches of state government;
- (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
- (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
- (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
- (i) Administrative hearings exempted pursuant to subsection (3) of this section;
- (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
- (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

- (a) Finance and Administration Cabinet
  - 1. Higher Education Assistance Authority
    - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
    - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
- (b) Cabinet for Health Services
  - 1. Office of Certificate of Need
    - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
    - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
- (c) Cabinet for Families and Children
  - 1. Department for Community Based Services
    - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
  - 2. Department for Disability Determination Services
    - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet
  1. Department of State Police
    a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
  2. Department of Corrections
    a. Parole Board hearings conducted under authority of KRS Chapter 439
    b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
    c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
  3. Department of Juvenile Justice
    a. Supervised placement revocation hearings conducted under KRS Chapter 635
(e) Labor Cabinet
  1. Department of Workers' Claims
    a. Workers' compensation hearings conducted under authority of KRS Chapter 342
(f) Natural Resources and Environmental Protection Cabinet
  1. Department for Surface Mining Reclamation and Enforcement
    a. Surface mining hearings conducted under authority of KRS Chapter 350
  2. Department for Environmental Protection
    a. Wild River hearings conducted under authority of KRS Chapter 146
    b. Water resources hearings conducted under authority of KRS Chapter 151
    c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
    d. Environmental protection hearings conducted under authority of KRS Chapter 224
(g) Kentucky Occupational Safety and Health Review Commission
  1. Occupational safety and health hearings conducted under authority of KRS Chapter 338
(h) Public Protection and Regulation Cabinet
  1. Board of Claims
    a. Liability hearings conducted under authority of KRS Chapter 44
  2. Public Service Commission
    a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
(i) ***Education*** Cabinet[~~ for Workforce Development~~]
  1.[~~ Department for Employment Services~~
    ~~a.~~] Unemployment Insurance hearings conducted under authority of KRS Chapter 341
(j) Secretary of State
  1. Registry of Election Finance
    a. Campaign finance hearings conducted under authority of KRS Chapter 121
(k) State universities and colleges
  1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
  2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
  3. Campus residency hearings conducted under authority of KRS Chapter 164
  4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
  5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 8. KRS 163.460 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "***Office***[~~Department~~]" means the ***Office***[~~Department~~] for the Blind.

(2) "Legally blind" means a visual acuity of 20/200 or less in the better eye with correction or a visual field of 20 degrees or less.

(3) "Visually impaired" means a condition of the eye with correction which constitutes or progressively results for the individual in a substantial disability to employment.

(4) "Executive director" means the executive director of the ***Office***[~~Department~~] for the Blind.

Section 9. KRS 163.470 is amended to read as follows:

(1) There is created within the ***Education*** Cabinet[~~ for Workforce Development~~] the ***Office***[~~Department~~] for the Blind.

(2) The ***executive director***[~~commissioner~~] shall be appointed by[~~ the Governor upon the recommendation of~~] the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] to whom he ***or she*** shall be directly responsible.

(3) The ***office***[~~department~~] shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The ***office***[~~department~~] shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the commissioner.

(4) (a) The Kentucky Department for the Blind State Rehabilitation Council is hereby created and established to accomplish the purposes and functions enumerated in the Rehabilitation Act of 1973, as amended. Members of the council shall be appointed by the Governor from recommendations submitted by the Department for the Blind consistent with the federal mandate to include a majority of individuals who are blind or visually impaired representing specified organizations, service providers, and advocacy groups. The composition, qualifications, and terms of service of the council shall conform to those prescribed by the federal law. There shall be statewide representation on the council.

(b) 1. Except as provided in subparagraph 2. of this paragraph, any vacancy occurring in the membership of the Department for the Blind State Rehabilitation Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.

2. The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(c) Each member of the Department for the Blind State Rehabilitation Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Kentucky Department for the Blind State Rehabilitation Council. The per diem and expenses shall be paid out of the federal funds appropriated under the Rehabilitation Act of 1973, as amended.

(5) The ***office***[~~department~~] shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(6) At the close of each biennium, the department shall prepare a financial report and present it to the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] and to the Governor. The biennial report shall be published. The biennial report shall also contain a precise review of the work of the ***office***[~~department~~] and contain necessary suggestions for improvement.

(7) The ***office***[~~department~~] shall coordinate its functions with other appropriate public and private agencies.

(8) The ***office***[~~department~~] shall perform all other duties as required of it by law.

(9) The ***executive director***[~~commissioner~~] shall hire personnel as necessary to carry out the work of the ***office***[~~department~~] and

the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons.

(10) There shall be created under the authority of the *office*[~~department~~], to be directed by *a director appointed by the secretary of the Education Cabinet*[~~the commissioner~~], a Division of *Consumer*[~~Client~~] Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, independent living, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.

(11) There shall be established under the authority of the *office*[~~department~~] to be directed by *a director appointed by the secretary*[~~the commissioner~~], *the*[~~a~~] Division of *Kentucky* Business *Enterprise*[~~Enterprises~~]. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the *office*[~~department~~] shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The *Office*[~~Department~~] for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(12) *The Office for the Blind shall provide industrial evaluation, training, and employment. Emphasis shall be on placement of individuals in public employment and long-term sheltered employment at industries for the blind. The Office for the Blind*[~~There shall be established under authority of the department, to be directed by the commissioner, a Division of Industries for the Blind which shall provide industrial evaluation, training, and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind. The Division of Industries for the Blind shall be abolished, effective July 1, 2000. The department~~], at all times, shall be authorized to provide industrial evaluation, training, and employment. [

~~(13)~~]The *office*[~~department~~] shall provide staff services which shall include fiscal management, staff development and training, program development and evaluation, public information office, and other staff services as may be deemed necessary.

(13)[~~(14)~~] The provisions of any other statute notwithstanding, the *executive director*[~~commissioner~~] is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

Section 10. KRS 163.480 is amended to read as follows:

(1) The *Office*[~~Department~~] for the Blind may contract, to the extent funds are available under this chapter and under conditions and standards established by the department, with any nonprofit corporation able to provide expertise in the operation of workshops for and rehabilitation of individuals who are blind or visually impaired and whose objectives are to carry out the purposes of KRS 163.470*(12)*[~~(13)~~].

(2) The *Office*[~~Department~~] for the Blind shall contract with a nonprofit corporation, effective July 1, 2000, to provide industrial evaluation, training, and employment opportunities for individuals who are blind or visually impaired[~~ as previously provided by the Division of Kentucky Industries for the Blind~~].

Section 11. KRS 163.487 is amended to read as follows:

As used in KRS 163.485 to 163.489, unless the context requires otherwise:

(1) "Accessible electronic information service" means news and other timely information, including but not limited to magazines, newsletters, schedules, announcements, and newspapers, provided to eligible individuals using high-speed computers, radios, and telecommunications technology for acquisition of content and rapid distribution in a form appropriate for use by those individuals; and

(2) "Blind and disabled persons" means those individuals who are eligible for library loan services through the Library of Congress and the *Office*[~~Department~~] for the Blind pursuant to 36 C.F.R. sec. 701.10(b).

Section 12. KRS 163.489 is amended to read as follows:

(1) The Accessible Electronic Information Service Program is created and shall be provided by the *Office*[~~Department~~] for the Blind. The program shall include:

(a) Intrastate access for eligible persons to read audio editions of newspapers, magazines, newsletters, schedules, announcements, and other information using a touch-tone telephone, radio, or other technologies that produce audio editions by use of computer; and

(b) A means of program administration and reader registration on the Internet, or by mail, telephone, or any other method providing consumer access.

(2) The program shall:

(a) Provide accessible electronic information services for all eligible blind and disabled persons as defined by KRS 163.487(2);

(b) Make maximum use of available state, federal, and other funds by obtaining grants or in-kind support from appropriate programs and securing access to low-cost interstate rates for telecommunications by reimbursement or otherwise.

(3) The ***Office***[~~Department~~] for the Blind shall review new technologies and current service programs in Kentucky for the blind and visually impaired that are available to expand audio communication if the department determines that these new technologies will expand access to consumers in a cost-efficient manner. The department may implement recommendations from the Department for the Blind State Rehabilitation Council for improving the program.

Section 13. KRS 163.506 is amended to read as follows:

(1) The Commission on the Deaf and Hard of Hearing shall consist of:

(a) Seven (7) members appointed by the Governor as follows:

1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;

2. Three (3) hard of hearing or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;

3. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;

4. One (1) hard of hearing or deaf person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term; and

5. One (1) deaf, late-deafened, or hard of hearing person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;

(b) One (1) representative of the Cabinet for Health Services appointed by the secretary;

(c) One (1) representative of the Cabinet for Families and Children appointed by the secretary;

(d) The secretary of the Education[~~, Arts, and Humanities~~] Cabinet or his ***or her*** designee;

(e) The president of the Kentucky Association for the Deaf or his ***or her*** designee;

(f) The president of the Kentucky Registry of Interpreters for the Deaf or his ***or her*** designee; and

(g) Three (3) persons appointed by the Commission on the Deaf and Hard of Hearing as constituted in subsections (1)(a) through (1)(f) of this section, appointed as follows:

1. One (1) parent of a hard of hearing or deaf child;

2. One (1) representative of a public or private organization providing consistent services to the deaf and hard of hearing; and

3. One (1) member at large.

(2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsection (1)(a)2. through (1)(a)5. and subsection (1)(g) of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.

(3) Each member of the commission shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

Section 14. KRS 171.312 is amended to read as follows:

In order to better facilitate the operation and management, the Kentucky Historical Society shall be organized into four (4) separate divisions. These divisions shall include: Research and Publications; Oral History and Educational Outreach; Administration; and Museums. The divisions shall be headed by a director appointed by the Executive Committee of the Kentucky Historical Society of the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet pursuant to KRS 171.311.

Section 15. KRS 171.3801 is amended to read as follows:

(1) There is established the Kentucky Heritage Council (hereinafter referred to as "the council") which shall perform the functions specified in KRS 171.381.

(2) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the preservation and protection of Kentucky's heritage. On or before September 15, 1982, the Governor shall appoint not more

than four (4) members for a term of one (1) year, not more than four (4) members for a term of two (2) years, not more than four (4) members for a term of three (3) years, and not more than four (4) members for a term of four (4) years. Thereafter, the Governor shall make all appointments for a term of four (4) years.

(3) Council members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(4) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(5) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(6) The council shall be attached to the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet for administrative purposes.

(7) The Heritage Council shall include a heritage division, whose duties shall include providing staff services needed by the Heritage Council in order to perform its duties under KRS 171.381, including but not limited to preserving and protecting buildings, sites and other landmarks associated with the archaeological, cultural, economic, military, national, political and social aspects of Kentucky's history.

(8) The heritage division shall be headed by a director appointed by the Governor from a list of three (3) nominees submitted by the Heritage Council; and the Heritage Council and the heritage division shall not be subject to reorganization.

Section 16. KRS 171.381 is amended to read as follows:

(1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(2) The duties and functions of the council shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

(3) The council may:

(a) Accept grants or other funds or property from any available source, public or private;

(b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;

(c) Enter into such contractual relationships as may be necessary;

(d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and

(f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

(4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet. The director of the Heritage Division shall be the state historic preservation officer.

(7) The responsibilities of the state historic preservation officer shall include:

(a) Development for the State Historic Preservation Program;

(b) Direction of a comprehensive statewide survey of historic properties;

(c) Nomination of historic properties to the National Register of Historic Places;

(d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;

(e) Cooperation in the integration of historic preservation planning with all levels of planning;

(f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;

(g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;

(h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;

(i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;

(j) Development and operation of a program of public information and education concerning the preservation program;

(k) Administration of the grants program within the state;

(l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and

(m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 17. KRS 171.420 is amended to read as follows:

The State Archives and Records Commission, is hereby created and shall be a seventeen (17) member body constituted as follows: The state librarian or his designee, who shall be the chairman of the commission, secretary of the Education[~~, Arts, and Humanities~~] Cabinet or his ***or her*** designee, the Auditor of Public Accounts or his ***or her*** designee, the Chief Justice of the Supreme Court or his ***or her*** designee, the director of the Legislative Research Commission or his ***or her*** designee, the Attorney General or his ***or her*** designee, the director of the Office for Policy and Management or his ***or her*** designee, the chief information officer or ***his or*** her[~~ or his~~] designee, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association, one (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, four (4) citizens at large, and one (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. The commission shall advise the Department for Libraries and Archives on matters relating to archives and records management. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

Section 18. KRS 171.800 is amended to read as follows:

(1) The Kentucky African-American Heritage Commission is hereby established to perform the functions specified in KRS 171.805.

(2) The membership of the commission shall consist of three (3) ex officio members and seventeen (17) members who derive from geographically diverse areas of the state and who represent various heritage interests as follows:

  (a) The secretary of the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet, or the secretary's designee to serve ex officio;

  (b) The president of Kentucky State University, or the president's designee to serve ex officio;

  (c) The director of the Kentucky Heritage Council, or the director's designee to serve ex officio;

  (d) Four (4) members from institutions of higher education;

  (e) One (1) member from the preservation community;

  (f) One (1) member from the arts community; and

  (g) Eleven (11) members from the public-at-large.

(3) Appointed members shall be appointed by the Governor and shall serve for terms of four (4) years. Any vacancies shall be filled by appointment of the Governor for the remainder of the unexpired term.

(4) Commission members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(5) From the commission membership, the Governor shall appoint a chairman and a vice chairman of the commission. The commission may elect by majority vote other officers deemed necessary.

(6) The commission shall meet at the call of the chairman, but not less often than three times during each calendar year. A majority of the members appointed to the commission shall constitute a quorum.

(7) The commission shall be attached to the Kentucky Heritage Council for administrative purposes.

(8) The commission may accept grants or raise funds from any available source, public or private, to accomplish its duties and responsibilities. Committees may be formed at the discretion of the chairman.

(9) The African-American Heritage Program is established as a branch within the Kentucky Heritage Division, whose responsibilities shall include providing staff services needed to perform its duties under KRS 171.805.

Section 19. KRS 171.805 is amended to read as follows:

(1) The Kentucky African-American Heritage Commission shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's African-American heritage.

(2) The duties and functions of the commission shall be to:

  (a) Advise the secretary of the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet and agencies within the cabinet on matters relating to African-American heritage.

  (b) Encourage other public and private agencies within the areas of the arts, the humanities, and the sciences to incorporate the African-American influence when developing programs on the history and heritage of Kentucky.

  (c) Represent a network of groups and individuals interested or involved in promoting awareness of African-American heritage in Kentucky.

  (d) Advocate the preservation, conservation, and interpretation of significant buildings, sites, neighborhoods, documents, artifacts, and lifeways that represent and embody African-American heritage.

  (e) Recognize and sanction projects which advance wider knowledge of African-Americans' impact on life in Kentucky.

  (f) Coordinate an initiative to protect, preserve, and promote the history of the Underground Railroad in Kentucky, in accordance with KRS 171.812.

Section 20. KRS 171.812 is amended to read as follows:

The commission shall coordinate Kentucky's Underground Railroad initiative in accordance with KRS 171.805. The commission's duties as they relate to this initiative shall include but not be limited to the following:

(1) Undertake a comprehensive statewide inventory of historic sites related to the Underground Railroad, and implement a master plan for site protection and development;

(2) Encourage and assist the state preservation officer within the Kentucky Heritage Council to nominate significant historical sites of the Kentucky Underground Railroad to the national and state registers of historic places;

(3) Develop and operate, in conjunction with the Tourism Development Cabinet, a program of public information, education, and promotion of the history of the Underground Railroad in Kentucky, to include but not be limited to implementing and maintaining a website connected to the Tourism Development Cabinet;

(4) Coordinate with local, state, and federal authorities in project planning that may affect Underground Railroad sites in Kentucky and neighboring states;

(5) Consider the council's recommendations and, contingent on review by the council, present to the secretary of the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet an annual report and plan for future action; and

(6) Pursue public and private funds to carry out the duties set forth in this section.

Section 21. KRS 171.814 is amended to read as follows:

An Underground Railroad Advisory Council shall be established within the commission.

(1) The council shall consist of thirteen (13) members, as follows:

  (a) Secretary of the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet, or designee;

  (b) Secretary of the Tourism Development Cabinet, or designee;

  (c) Secretary of the Transportation Cabinet, or designee;

  (d) Director of the Kentucky Historical Society, or designee;

  (e) State historic preservation officer of the Kentucky Heritage Council, or designee;

  (f) Chair of the commission or designee;

  (g) Director of the Underground Railroad Institute at Georgetown College, or designee;

  (h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;

(i) Two (2) at-large representatives who hold an interest in the protection, preservation, and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor;

(j) One (1) member of the board or staff of the National Underground Railroad Freedom Center who resides within a county of the Northern Kentucky Area Development District; and

(k) One (1) member of the board or staff of the National Underground Railroad Museum who resides within a county of the Buffalo Trace Area Development District.

(2) The duties of the council shall be to:

(a) Advise and assist the commission with respect to issues and opportunities related to the Underground Railroad; and

(b) Annually review and make recommendations to the commission on the annual report and plan for future action.

(3) Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.

(4) The chair of the commission shall serve as chair of the council.

(5) The council shall meet annually or more frequently at the request of the chair.

(6) Six (6) members shall constitute a quorum for conducting business.

(7) In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.

(8) Members of the council shall serve without compensation.

Section 22. KRS 171.816 is amended to read as follows:

The ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet shall be charged with the purpose of protecting, preserving, and promoting the history of the Underground Railroad in Kentucky in accordance with KRS 171.805 and 171.810 to 171.814. The secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet shall receive an annual report from the Kentucky African-American Heritage Commission in accordance with KRS 171.812(5), and shall review and submit the annual report to the Governor and the Legislative Research Commission for distribution to the appropriate committees.

Section 23. KRS 171.820 is amended to read as follows:

(1) The Kentucky Native American Heritage Commission is hereby established to promote, in partnership with the ***Commerce***~~[Education, Arts and Humanities]~~ Cabinet, awareness of significant Native American influences within the historical and cultural experiences of Kentucky.

(2) The membership of the commission shall consist of seventeen (17) members who derive from geographically diverse areas of the state and who represent various heritage interests as follows:

(a) The secretary of the ***Commerce***~~[Education, Arts and Humanities]~~ Cabinet, or the secretary's designee;

(b) Three (3) members from institutions of higher learning;

(c) Two (2) members from the preservation or archeological communities;

(d) One (1) member from the arts community; and

(e) Ten (10) members from the public at large, eight (8) of whom shall be of Native American heritage.

(3) Members listed in paragraphs (b) to (e) of subsection (2) of this section shall be appointed by the Governor and shall serve for terms of four (4) years. Any vacancy shall be filled by appointment of the Governor for the remainder of the unexpired term.

(4) Commission members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(5) From the commission membership, the Governor shall appoint a chair and vice chair of the commission. The commission may elect by majority vote other officers deemed necessary.

(6) The commission shall meet at least three (3) times per year. Notice of the time and location of each meeting shall be provided in writing to each member at least ten (10) days in advance of the meeting.

(7) A majority of the members present shall constitute a quorum.

(8) Committees may be formed at the discretion of the chair.

(9) The commission may seek and accept grants or raise funds from any available source, public or private, to accomplish its duties and responsibilities.

(10) The commission shall be attached for administrative purposes to the Kentucky Heritage Council, whose responsibilities shall include but not be limited to designating a staff person to coordinate commission staff needs and providing other staff and services as needed for the commission to perform its duties under KRS 171.822.

Section 24. KRS 171.822 is amended to read as follows:

The duties of the Kentucky Native American Heritage Commission shall be to:

(1) Advise the ***Commerce***~~[Education, Arts and Humanities]~~ Cabinet, the Kentucky Heritage Council, and the Kentucky General Assembly on matters relating to Native American heritage;

(2) Encourage other public and private agencies within the areas of the arts, humanities, and sciences to incorporate the Native American influence when developing programs on the history and heritage of Kentucky;

(3) Represent a network of groups and individuals interested, or actively involved, in promoting awareness of Native American heritage in Kentucky;

(4) Support the preservation, conservation, and interpretation of significant buildings, sites, structures, documents, artifacts, and lifestyles that represent and embody Native American heritage; and

(5) Recognize and sanction projects that advance wider knowledge of Native Americans' contributions to, and influence and impact on, life in Kentucky.

Section 25. KRS 177.109 is amended to read as follows:

The Transportation and Tourism Interagency Committee shall have, but not be limited to, the following duties and responsibilities:

(1) Review Kentucky's signage laws, administrative regulations, and policies implementing the federal "Manual on Uniform Traffic Control Devices" and submit any proposed revisions to the secretary of the Transportation Cabinet;

(2) Seek public comment on Kentucky's signage laws, administrative regulations, and policies;

(3) Advise the Transportation Cabinet on the scenic byways and highways program;

(4) Review and make recommendations on requests for highway signage from tourism-related entities;

(5) Coordinate development of the tourism information potential of welcome centers and rest areas through such means as interactive videos, information kiosks, and highway advisory radio transmitters, as well as other innovative methods which may be identified by the committee;

(6) Monitor developments across the United States relating to billboards and official signs;

(7) Report to the secretary of the Transportation Cabinet and to the secretary of the Tourism Development Cabinet on issues of mutual interest to the cabinets;

(8) Serve as an advisory committee on issues identified by the secretary of the Transportation Cabinet and secretary of the Tourism Development Cabinet; and

(9) Report committee recommendations to the secretary of the Transportation Cabinet, the secretary of the Tourism Development Cabinet, the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet, and the secretary of the Executive Cabinet.

Section 26. KRS 186.576 is amended to read as follows:

As used in KRS 186.576 to 186.579:

(1) "Applicant" means any person applying for an instruction permit or an operator's license who must use a bioptic telescopic device in order to operate a motor vehicle;

(2) "Binocular vision" means visual acuity that is 20/200 or better in both eyes, with or without corrective lenses;

(3) "Bioptic telescopic device" means a two (2) focus optical system used to magnify distant objects by including a small telescope that is mounted in a spectacle lens in a manner to allow an unobstructed view of the horizontal visual field through a person's normal distance corrective lens;

(4) "Certified driver training program" means a program that provides and coordinates comprehensive assessment and training of driving skills and responses that emphasizes the vision, hearing, psychological, perceptual, orientation, and mobility skills of an applicant and that is certified by the department;

(5) "Combined visual acuity" means visual acuity attained by using both eyes together where a person has binocular vision;

(6) "Corrective lenses" means eyeglasses, contact lenses, and intraocular lenses, but does not mean a bioptic telescopic device;

(7) "Daytime driving restriction" means operation of a motor vehicle is restricted to the period of time from between thirty (30) minutes after sunrise and thirty (30) minutes before sunset. Under this restriction, driving during adverse weather conditions that significantly reduce the visibility of the roadway, other traffic, and traffic control devices shall be prohibited;

(8) "***Office***~~[Department]~~" means the ***Office***~~[Department]~~ for the Blind;

(9) "Monocular vision" means visual acuity that is 20/200 or better in only one (1) eye, with or without corrective lenses;

(10) "Restricted out-of-state driver" means a person who has been issued, by another state, a valid operator's license with a restriction requiring the use of a bioptic telescopic device;

(11) "Vision specialist" means a licensed ophthalmologist or optometrist;

(12) "Visual acuity" means the measure of a person's visual acuity based on the Snellen visual acuity scale; and

(13) "Visual field" means the area of physical space visible to the eye in a given fixed position.

Section 27. KRS 186.578 is amended to read as follows:

(1) Applicants accepted to participate in a certified driver training program shall meet the following minimum vision requirements:

(a) A distance visual acuity of 20/200 or better, with corrective lenses, in the applicant's better eye;

(b) A visual field of at least one hundred twenty (120) degrees horizontally and eighty (80) degrees vertically in the same eye as used in paragraph (a) of this subsection;

(c) A distance visual acuity of 20/60 or better using a bioptic telescopic device; and

(d) No ocular diagnosis or prognosis that indicates a likelihood that significant deterioration of visual acuity or visual field to levels below the minimum standards outlined in this subsection will occur.

(2) Upon acceptance into a certified driver training program, an applicant shall be given an examination to test his or her knowledge of the motor vehicle laws of the Commonwealth. This examination may be taken orally. Upon successful completion of this examination, the applicant shall be issued a temporary instruction permit, that shall be valid only when the applicant is accompanied by an employee of a certified driver training program. Temporary instruction permits issued under this section shall be valid for one (1) year from the date of issue.

(3) An applicant who successfully completes a certified driver training program shall be reexamined by a vision specialist upon completion of the program. The examination shall certify that the applicant continues to meet the visual acuity and visual field standards set forth in subsection (1) of this section.

(4) An applicant who successfully completes a certified driving training program and passes the visual reexamination required by subsection (3) of this section shall be eligible to take a comprehensive operator's license examination administered by the State Police. The operator's license examination shall include testing of the applicant's driving skills over a route specifically designed to test the applicant's competency using a bioptic telescopic device.

(5) An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall be required to take and pass a temporary instruction permit examination before being eligible to take the operator's license examination. An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall not be required to complete a certified driver training program, but shall be required to take and pass the visual examination outlined in subsection (3) of this section before taking the operator's license examination.

(6) If an applicant or restricted out-of-state driver fails the operator's license examination three (3) times, he or she shall not be eligible to retake the examination until successfully completing additional training from a certified driver training program and obtaining an affidavit from the program director recommending that the applicant or restricted out-of-state driver be allowed to retake the examination.

(7) The ***Office***[~~Department~~] for the Blind shall promulgate administrative regulations in accordance with KRS Chapter 13A to set standards for a certified driver training program and to otherwise carry out the provisions of this section.

Section 28. KRS 194A.135 is amended to read as follows:

(1) The Kentucky Council on Developmental Disabilities is created within the cabinet.

(2) The Kentucky Council on Developmental Disabilities is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.

(3) The members of the Kentucky Council on Developmental Disabilities shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) members.

(a) Ten (10) members shall be representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973 as amended; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA); the state agency that administers funds provided under the Older Americans Act of 1965 as amended; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; and the protection and advocacy system established under Public Law 101-496. These members shall represent the following:

1. ***Office***[~~Department~~] for Vocational Rehabilitation;

2. ***Office***[~~Department~~] for the Blind;

3. Division of Exceptional Children, within the Department of Education;

4. Office of Aging Services;

5. Department for Medicaid Services;

6. Department of Public Advocacy, Protection and Advocacy Division;

7. University-affiliated programs;

8. Local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities;

9. Department for Mental Health and Mental Retardation Services; and

10. Department for Public Health, Division of Adult and Child Health.

(b) At least sixty percent (60%) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 as amended and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) members shall be persons with developmental disabilities, and five (5) members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and at least one (1) of these members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution.

(c) Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause.

(d) The council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The cabinet shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be responsible for the recruitment and hiring of a new executive director.

(4) The Kentucky Council on Developmental Disabilities shall:

(a) Develop, in consultation with the cabinet, and implement the state plan as required by Part B of the Developmental Disabilities Act of 1984, as amended, with a goal of development of a coordinated consumer and family centered focus and direction, including the specification of priority services required by that plan;

(b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives;

(c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities;

(d) Submit to the secretary of the cabinet, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the cabinet finds necessary to verify the reports;

(e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;

(f) Examine, not less than once every five (5) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and

(g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.

Section 29. KRS 194B.110 is amended to read as follows:

(1) The Kentucky Commission on Human Services Collaboration is hereby created and is attached to the Cabinet for Families and Children for administrative purposes. The commission shall develop, adopt, and amend, as appropriate, a service coordination plan to promote health, education, and social services partnerships of public and private agencies. The commission shall coordinate, evaluate, and provide technical assistance in implementing the service coordination plan.

(2) The commission shall coordinate and facilitate development of community partnership strategic plans, which are designed to implement the service coordination plan.

(3) The commission shall coordinate and facilitate development of outcomes to be achieved by community partnerships as outlined in the service coordination plan and report on progress toward achieving results.

(4) The commission shall also work to increase the efficiency and effectiveness of services to individuals, families and children through the identification and elimination of duplicative boards and commissions, which exercise overlapping responsibilities, and the identification of gaps in and barriers to the provision and receipt of human services. The commission shall provide technical assistance to communities.

(5) The commission shall report to the Legislative Research Commission and the General Assembly by October 1 of each year on the following:

(a) The coordination plan;

(b) The community partnership strategic plans;

(c) The increase in the efficiency and effectiveness of services;
(d) The boards and commissions eliminated;
(e) The boards and commissions identified as duplicative; and
(f) The identified gaps and barriers to provision and receipt of human services.

(6) The commission shall consist of the following members:

(a) The Governor's designee;
(b) The secretary of the Cabinet for Families and Children;
(c) The secretary for the Cabinet for Health Services;
(d) The secretary of the Cabinet of Economic Development;
(e) The secretary of the Justice Cabinet;
(f) The secretary of ***the Education Cabinet***[~~Arts, Education and Humanities~~];
(g) The secretary of the Tourism Cabinet;
(h)[~~ The secretary of the Cabinet for Workforce Development;~~
~~(i)~~] The commissioner of education;
(i)[~~(j)~~] The commissioner of juvenile justice;
(j)[~~(k)~~] The director of the Administrative Office of the Courts;
(k)[~~(l)~~] Seven (7) gubernatorial appointees, representing business, community leaders, and consumers; and
(l)[~~(m)~~] The chair for the Council on State and Local Collaboratives.

(7) Members who hold state government positions shall serve by virtue of their offices. The remaining initial members of the commission shall be designated by the Governor to serve for a term ranging from one (1) to four (4) years. Subsequent appointments to the commission shall be for four (4) year terms and limited to two (2) consecutive four (4) year terms.

(8) The Governor shall designate a member of the public appointed to the commission to serve as chair of the commission for a term of two (2) years. Thereafter, a chair shall be selected by the members of the commission from the members of the public appointed by the commission. The chair shall serve for a period of two (2) years.

(9) The chair of the commission, following consultation with the cabinet secretaries and upon agreement of the commission, may designate work groups to make recommendations to the commission regarding parental and community involvement and its mission.

(10) Staff assistance shall be provided to the commission through the cooperative efforts of the members of the commission serving in the executive cabinet. Primary staff assistance shall be the responsibility of the Cabinet for Families and Children.

(11) Members of the commission shall be eligible to receive travel expenses while attending meetings of the commission in accordance with state travel regulations. Members of committees appointed by the commission shall be eligible for reimbursement of travel expenses incurred while attending committee or commission meetings in accordance with state travel regulations.

(12) The commission shall cease to exist two (2) years after July 15, 1998, unless otherwise reauthorized by the General Assembly.

Section 30. KRS 200.700 is amended to read as follows:

(1) The Early Childhood Development Authority is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including, but not limited to, employing other persons, consultants, attorneys, and agents. The authority shall be attached to the ***Department of Education***[~~Office of the Governor, Office of Early Childhood Development~~], for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.

(2) The authority shall consist of the following seventeen (17) members:

(a) The[~~ executive~~] director of the ***Division***[~~Governor's Office~~] of Early Childhood Development, who shall serve as chair;
(b) The secretary of the Education[~~, Arts, and Humanities~~] Cabinet;
(c) The secretary of the Cabinet for Health Services;
(d) The secretary of the Cabinet for Families and Children;
(e) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;
(f) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the

President of the Senate;

(g) Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor. At least one (1) private sector member shall be appointed from each congressional district;

(h) Three (3) citizens at large of the Commonwealth who shall be appointed by the Governor; and

(i) One (1) early childhood development advocate.

(3) No later than thirty (30) days after July 14, 2000, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:

(a) The Kentucky AFL-CIO;

(b) The Kentucky Chamber of Commerce;

(c) The Kentucky League of Cities;

(d) The Kentucky Medical Association;

(e) The Louisville Urban League and Lexington Urban League;

(f) The Kentucky County Judge/Executives Association; and

(g) The[~~Kentucky~~] Council on Postsecondary Education.

(4) The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section. The Governor shall fill a vacancy occurring before the expiration of the appointed term from the appropriate list of nominees. If there are no nominees remaining on the appropriate list, the Governor shall request a list of additional nominees from the appropriate organization.

(5) (a) The initial terms of the private sector and citizen at-large members of the authority shall be for:

1. One (1) year for two (2) of the initial terms;
2. Two (2) years for three (3) of the initial terms;
3. Three (3) years for two (2) of the initial terms; and
4. Four (4) years for four (4) of the initial appointments.

(b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment.

(c) Members shall serve until a successor has been appointed.

(6) Private sector and citizen at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(7) In making appointments to the authority, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the authority of broad constituencies of Kentucky's early childhood development community.

(8) Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

(10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

Section 31. KRS 200.703 is amended to read as follows:

(1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:

(a) Implementation of public health initiatives identified by the General Assembly;

(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;

(c) Voluntary immunization for children not covered by public or private health insurance;

(d) Availability of high-quality, affordable early child-care and education options; and

(e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.

(2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

(3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health Services; the Cabinet for Families and Children; the Education~~[, Arts, and Humanities]~~ Cabinet; the Finance and Administration Cabinet; or other appropriate administrative agency.

(4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.

(5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Coordinate and improve early childhood development services, outcomes, and policies;

(b) Establish procedures that relate to its governance;

(c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;

(d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;

(e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and

(f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:

1. The financial management of funds paid to grantees;

2. The maintenance of records; and

3. An independent audit of the use of grant funds.

(6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

(7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.

(8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:

(a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or

(b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority, or any programs that had been funded by the authority with expenditures from the early childhood development fund.

(9) (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Families and Children; the Cabinet for Health Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.

(b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.

(10) The authority shall work with local entities, including, but not limited to, health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination.

(11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

Section 32. KRS 200.705 is amended to read as follows:

The ***Department of Education***[~~Office of Early Childhood Development in the Office of the Governor~~] shall provide staffing and administrative support to:

(1) The Early Childhood Development Authority;

(2) The Early Childhood Business Council; ***and***

(3)[~~ The Early Childhood Professional Development Council; and~~

~~(4)~~] The Kentucky Early Intervention System Interagency Coordinating Council.

Section 33. KRS 200.709 is amended to read as follows:

(1) The Early Childhood Business Council is created and attached to the ***Department of Education***[~~Office of Early Childhood Development, Office of the Governor,~~] for administrative purposes. The function of the council shall be to:

- (a) Involve the corporate community, county judges/executive, and mayors in supporting issues of importance to working families with young children in the Commonwealth; and
- (b) Collect and disseminate information about the various ways business and local government can become involved in supporting early childhood.

(2) (a) The Early Childhood Business Council shall consist of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall serve for a term of two (2) years and until their successors are appointed and qualify, except that for those members initially appointed, the terms are as follows:

  1. Five (5) members shall be appointed for three (3) years;
  2. Five (5) members shall be appointed for two (2) years; and
  3. Five (5) members shall be appointed for one (1) year.

- (b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments. Members may not serve more than a total of three (3) terms.
- (c) Members who are eligible to be appointed shall have demonstrated an investment or interest in early childhood development.

(3) Members of the Early Childhood Business Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

(4) The Early Childhood Business Council shall meet at least once every three (3) months and shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

Section 34. KRS 210.031 is amended to read as follows:

(1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.

- (a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:
  1. The Kentucky Association of the Deaf;
  2. The A.G. Bell Association;
  3. The Kentucky School for the Deaf Alumni Association; and
  4. Self Help for the Hard of Hearing.

  The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.
- (b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.
- (c) The head of each of the following entities shall appoint one (1) member to the advisory committee:
  1. The Cabinet for Health Services, Department for Mental Health and Mental Retardation Services;
  2. The ***Education*** Cabinet[~~ for Workforce Development~~], ***Office***[~~Department~~] of Vocational Rehabilitation;
  3. The Cabinet for Health Services, Office of Aging Services;
  4. The Education[~~, Arts, and Humanities~~] Cabinet, Commission on the Deaf and Hard of Hearing;
  5. The Kentucky Registry of Interpreters for the Deaf; and
  6. A Kentucky School for the Deaf staff person involved in education.

(d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.

(2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.

(3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) shall serve without compensation or reimbursement of any kind.

(4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.

(5) The advisory committee shall meet quarterly at a location determined by the committee chair.

(6) (a) The advisory committee shall prepare a biennial report which:

1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
2. Reports the number of deaf or hard-of-hearing persons served;
3. Identifies additional service needs for the deaf and hard-of-hearing; and
4. Identifies a plan to address unmet service needs.

(b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 35. KRS 210.502 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;
(b) The secretary of the Cabinet for Families and Children;
(c) The secretary of the Justice Cabinet;
(d) The commissioner of the Department for Mental Health and Mental Retardation Services;
(e) The commissioner of the Department for Medicaid Services;
(f) The commissioner of the Department of Corrections;
(g) The commissioner of the Department of Juvenile Justice;
(h) The commissioner of the Department of Education;
(i) The ***executive director***~~[commissioner]~~ of the ***Office***~~[Department]~~ of Vocational Rehabilitation;
(j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;
(k) The director of the Office of Family Resource and Youth Services Centers;
(l) The executive director of the Office of Aging Services of the Cabinet for Health Services;
(m) The executive director of the Kentucky Agency for Substance Abuse Policy;
(n) The executive director of the Criminal Justice Council;
(o) The director of the Administrative Office of the Courts;
(p) The chief executive officer of the Kentucky Housing Corporation;
(q) The executive director of the Office of Transportation Delivery of the Transportation Cabinet;
(r) The commissioner of the Department of Public Health;
(s) Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;
(t) Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;
(u) A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;
(v) A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) consumers

submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and

(w) An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.

(2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members designated in paragraphs (a) to (t) of subsection (1) of this section shall serve during their terms of office.

(4) Members and alternates designated in paragraphs (u) to (w) of subsection (1) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 36. KRS 210.575 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The commissioner of the Department for Mental Health and Mental Retardation Services;

(d) The commissioner of the Department for Medicaid Services;

(e) The ***executive director***~~[commissioner]~~ of the ***Office***~~[Department]~~ of Vocational Rehabilitation;

(f) The director of the University Affiliated Program at the Interdisciplinary Human Development Institute of the University of Kentucky;

(g) The director of the Kentucky Council on Developmental Disabilities;

(h) Two (2) members of the House of Representatives, appointed by the Speaker of the House;

(i) Two (2) members of the Senate, appointed by the Senate President; and

(j) Public members, appointed by the Governor as follows:

1. Five (5) family members, at least one (1) of whom shall be a member of a family with a child with mental retardation or other developmental disabilities, and one (1) of whom shall be a member of a family with an adult with mental retardation or other developmental disabilities. Of these five (5) family members, at least two (2) shall be members of a family with an individual with mental retardation or other developmental disabilities residing in the home of the family member or in a community-based setting, and at least two (2) shall be members of a family with an individual with mental retardation or other mental disabilities residing in an institutional residential facility that provides service to individuals with mental retardation or other developmental disabilities;
2. Three (3) persons with mental retardation or other developmental disabilities;
3. Two (2) business leaders;
4. Three (3) direct service providers representing the Kentucky Association of Regional Programs and the Kentucky Association of Residential Resources; and
5. One (1) representative of a statewide advocacy group.

The six (6) appointments made under subparagraphs 1. and 2. of this paragraph shall be chosen to reflect representation from each of Kentucky's six (6) congressional districts.

(2) The secretary of the Cabinet for Health Services shall serve as chair of the commission.

(3) Members defined in paragraphs (a) to (i) of subsection (1) of this section shall serve during their terms of office. All public members appointed by the Governor shall serve a four (4) year term and may be reappointed for one (1) additional four (4) year term.

(4) All public members of the commission shall receive twenty-five dollars ($25) per day for attending each meeting. All commission members shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of duties of the commission.

Section 37. KRS 247.804 is amended to read as follows:

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory Council shall be composed of:

(1) One (1) representative from each of the following entities:

(a) Department of Agriculture, appointed by the Commissioner of Agriculture;

(b) Tourism Development Cabinet, appointed by the secretary of the cabinet;

  - (c) Education~~[, Arts, and Humanities]~~ Cabinet, appointed by the secretary of the cabinet;
  - (d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;
  - (e) University of Kentucky Cooperative Extension Service;
  - (f) West Kentucky Corporation;
  - (g) Kentucky Tourism Council;
  - (h) Kentucky Farm Bureau;
  - (i) Kentucky Association of Fairs and Horse Shows;
  - (j) East Kentucky Corporation;
  - (k) Southern and Eastern Kentucky Tourism Development Association;
  - (l) Licking River Valley Resource Conservation and Development Council;
  - (m) Buffalo Trace Covered Bridge Authority;
  - (n) Kentucky Chamber of Commerce; and
  - (o) Kentucky Council of Area Development Districts;

(2) The Governor, or a designee;

(3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and

(4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

Section 38. KRS 347.040 is amended to read as follows:

(1) The secretaries of the Cabinet for Health Services and the Education~~[, Arts, and Humanities]~~ Cabinet and the ***commissioner of education***~~[chief state school officer]~~ shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:

  - (a) Identification and prompt and adequate interdisciplinary assessment;
  - (b) Case management services; and
  - (c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the Legislative Research Commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:

  - (a) The number of institution residents on waiting lists for placement in the community;
  - (b) The number of persons outside institutions on waiting lists for placement in the institution;
  - (c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;
  - (d) The number, type, nature, and cost of services necessary for placement to occur;
  - (e) The status of compliance with the plan;
  - (f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and
  - (g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this chapter.

Section 39. KRS 347.050 is amended to read as follows:

The Cabinet for Health Services, the Education~~[, Arts, and Humanities]~~ Cabinet, and the Department of Education shall promulgate and implement rules and regulations for the:

(1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this chapter, including, but not limited to, the right to:

  - (a) Provision of services in the least restrictive, individually appropriate environment;
  - (b) An individualized service plan;
  - (c) Privacy and humane service;
  - (d) Confidentiality, access, referral, and transfer of records;

(e) Monitored active treatment in the least restrictive, individually appropriate environment;

(f) Notice of rights under this chapter; and

(g) A fair, timely, and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, residential alternatives, and the protection of the rights of persons with developmental disabilities under this chapter.

(2) Implementation of this chapter providing for the orderly development of services and coordination among organizational units, administrative bodies, and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

Section 40. KRS 347.060 is amended to read as follows:

The Cabinet for Health Services, the Education[~~, Arts, and Humanities~~] Cabinet, and the Department of Education may assess reasonable charges for services rendered under this chapter, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this chapter may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of KRS 347.010.

Section 41. KRS 18A.450 is amended to read as follows:

Nothing in KRS 18A.400 to 18A.450 shall prohibit the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] or the commissioner of the Department of State Police from developing pilot programs consistent with the provisions of KRS 18A.400 to 18A.450. To the extent that pilot programs are approved by these agencies, in no event shall the total number employees participating in these programs statewide exceed twenty percent (20%) of the permanent, full-time state employees employed on July 15, 1994.

Section 42. KRS 42.4592 is amended to read as follows:

(1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585 and following the transfer of moneys to the secondary wood products development fund provided for in KRS 42.4586 shall be allocated as follows:

(a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years.

(b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:

1. Percentage of employment in mining in relation to total employment in the respective county;
2. Percentage of earnings from mining in relation to total earnings in the respective county; and
3. Surplus labor rate.

(c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two or more coal producing counties. For purposes of this paragraph, "coal producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.

(2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the ***Office of Employment and Training***[~~Department of Employment Services~~] in the ***Education*** Cabinet[~~ for Workforce Development~~], as provided in paragraph (b) of this subsection.

(b) 1. Each year the ***Office of Employment and Training***[~~Department for Employment Services~~] shall estimate surplus labor for each county and for the Commonwealth, and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.

2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the ***Office of Employment and Training***[~~Department of Employment Services~~] may consult with knowledgeable individuals including, but not limited to, the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.

3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.

(3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their

identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Department for Local Government.

Section 43. KRS 45.001 is amended to read as follows:

(1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.

(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following members or their designees:

(a) The mayor of the city of Frankfort;
(b) The county judge/executive of Franklin County;
(c) The secretary of the Finance and Administration Cabinet;
(d) The secretary of the Tourism Cabinet;
(e) The secretary of the Education[~~, Arts, and Humanities~~] Cabinet;
(f) The commissioner of the Department of Travel Development;
(g) The executive director of the Office of Capital Plaza Operations;
(h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;
(i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and
(j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

(4) The Governor shall appoint the chairperson of the committee.

(5) Members of the committee shall serve without compensation.

(6) The Office of Capital Plaza Operations in the Finance and Administration Cabinet shall provide administrative support to the committee.

Section 44. KRS 45A.470 is amended to read as follows:

(1) All governmental bodies and political subdivisions of this state shall, when purchasing commodities or services, give first preference to the products made by the Department of Corrections, Division of Prison Industries, as required by KRS 197.210. Second preference shall be given to the Kentucky industries for the blind as described in KRS 163.450 to 163.470 through June 30, 2000, and thereafter to any products produced by Kentucky Industries for the Blind, Incorporated or any other nonprofit corporation with which the ***Office***[~~Department~~] for the Blind contracts under KRS 163.480(2) to further the purposes of KRS Chapter 163 and agencies of individuals with severe disabilities as described in KRS 45A.465.

(2) The Finance and Administration Cabinet shall make a list of commodities and services provided by these agencies and organizations available to all governmental bodies and political subdivisions. The list shall identify in detail the commodity or service the agency or organization may supply and the price.

(3) The Finance and Administration Cabinet shall annually determine the current price range for the commodities and services offered from its experience in purchasing these commodities or services on the open market. The prices quoted by these agencies or organizations shall not exceed the current price range.

(4) The ***Office***[~~Department~~] for the Blind within the ***Education*** Cabinet[~~ for Workforce Development~~] and qualified agencies for individuals with severe disabilities shall annually cause to be made available to the Finance and Administration Cabinet, lists of the products or services available.

(5) If two (2) or more of the agencies or qualified nonprofit organizations wish to supply identical commodities or services, the Finance and Administration Cabinet shall conduct negotiations with the parties to determine which shall be awarded the contract. The decision of the Finance and Administration Cabinet shall be based upon quality of the commodity or service and the ability of the respective agencies to supply the commodity or service within the requested delivery time.

Section 45. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) (a) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the ***former*** Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 46. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor ***and the***[~~,~~] Lieutenant Governor,[~~ and the Superintendent of Public Instruction,~~] the heads of departments and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary ***of***[~~for~~] education[~~, arts, and humanities~~]	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Secretary of labor	5,000
Commissioner of surface mining reclamation and enforcement	50,000
State librarian	5,000
Commissioner of mines and minerals	5,000

Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for natural resources and environmental protection	10,000
Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health services	20,000
Secretary for families and children	20,000
Commissioner for environmental protection	10,000
Secretary for public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 47. KRS 96A.095 is amended to read as follows:

(1) The Transportation Cabinet may receive and accept from the Commonwealth or any of its agencies, including the Cabinet for Families and Children, the Cabinet for Health Services, and the ***Education*** Cabinet[~~ for Workforce Development~~], and from federal agencies appropriations or grants to promote, develop, and provide capital and operating subsidies for mass transit services and human service transportation delivery in Kentucky, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value to promote mass transit services. Subject to the provisions of Section 230 of the Constitution of the Commonwealth of Kentucky, any of these funds, property, or things of value received by the Transportation Cabinet may be given directly to any of the following entities in order to accomplish the purposes of this section:

(a) A local transit authority as created under this chapter;
(b) A city;
(c) A county;
(d) Other public mass transit providers;
(e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
(f) An entity providing human service transportation delivery.

(2) The Transportation Cabinet is authorized and directed to apply for any available federal funds for operating subsidies, either on a matching basis or otherwise and to make any of these funds received available to any of the following entities in order to accomplish the purposes of this section:

(a) A local transit authority as created under this chapter;
(b) A city;
(c) A county;
(d) Other public mass transit providers;
(e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
(f) An entity promoting or providing transit services such as safety, planning, research, coordination, or training activities.

In those cases where federal laws or regulations preclude the Transportation Cabinet from direct application for this type of federal funds, the cabinet is authorized and directed to provide assistance to any of the entities listed in this subsection as necessary to enable it to apply for and obtain this type of federal funds in order to accomplish the purposes of this section.

(3) The Transportation Cabinet is authorized to assist cities and counties in the formation of local transit authorities in conformance with this chapter, but nothing in this chapter shall be construed as preventing the Transportation Cabinet from providing assistance as authorized in this chapter to cities or counties where local transit authorities do not exist.

(4) The Transportation Cabinet is authorized to contract, in accordance with the provisions of KRS Chapters 45A and 281, with a broker to provide human service transportation delivery within a specific delivery area.

Section 48. KRS 151B.010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the commissioner ***of the Department for Workforce Investment***[~~for the Department for Technical Education~~] or any person authorized by the commissioner to act on behalf of the ***Office of Career and Technical Education***[~~department~~] with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. The designation shall be in writing and signed by both the commissioner and the designee.

(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035(3)***(h)***[~~(i)~~].

(3) "Board" means the Kentucky Technical Education Personnel Board established in KRS 151B.097.

(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the ***Office of Career and***[~~Department for~~] Technical Education are subject to personnel administration under this chapter.

(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.

(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.

(7) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.

(8) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.

(9) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the ***Office of Career and***[~~Department for~~] Technical Education requiring certification or its equivalent.

(10) "Employee" means a person regularly employed in a position in the ***Office of Career and***[~~Department for~~] Technical Education for which compensation is on a full-time or part-time basis.

(11) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the ***Office of Career and***[~~Department for~~] Technical Education shall be subject to personnel administration under this chapter.

(12) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant Attorney General.

(13) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.

(14) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.

(15) "Limited status" means employment that is renewable on an annual basis.

(16) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions.

(17) "Position" means employment involving duties requiring the services of one (1) person.

(18) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.

(19) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.

(20) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.

(21) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the ***Office of Career and***[~~Department for~~] Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.

(22) "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.

(23) "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.

(24) "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.

(25) "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.

(26) "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position who

shall be exempt from the state service under KRS Chapter 18A and who is employed in the ***Office of Career and***[~~Department for~~] Technical Education under this chapter.

Section 49. KRS 132.193 is amended to read as follows:

(1) Leased personal property exempt from taxation, when such property is held by a natural person, association, or corporation in connection with a business conducted for profit, shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the property, except for personal property used in vending stands operated by blind persons under the auspices of the ***Office***[~~Department~~] for the Blind.

(2) Taxes shall be assessed to lessees of exempt personal property and collected in the same manner as taxes assessed to owners of other personal property, except that taxes due under this section shall not become a lien against the personal property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, city, or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS 134.500.

Section 50. KRS 132.195 is amended to read as follows:

(1) When any real or personal property which for any reason is exempt from taxation is leased or possession otherwise transferred to a natural person, association, partnership, or corporation in connection with a business conducted for profit, the leasehold or other interest in the property shall be subject to state and local taxation at the rate applicable to real or personal property levied by each taxing jurisdiction.

(2) Subsection (1) of this section shall not apply to interests in:

(a) Industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit or tax-exempt statutory authority under the provisions of KRS Chapter 103, the taxation of which is provided for under the provisions of KRS 132.020 and 132.200;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution;

(d) Vending stand locations and facilities operated by blind persons under the auspices of the ***Office***[~~Department~~] for the Blind, regardless of whether the property is owned by the federal, state, or a local government; or

(e) Property of any free public library.

(3) Taxes shall be assessed to lessees of exempt real or personal property and collected in the same manner as taxes assessed to owners of other real or personal property, except that taxes due under this section shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS 134.500.

Section 51. KRS 146.654 is amended to read as follows:

(1) The board of directors of the Kentucky Natural History Museum shall establish the Kentucky Natural History Museum. The board shall implement KRS 146.650 to 146.666 to the extent practical prior to operation of the museum. Working to achieve the public purposes that are the goals of implementation of KRS 146.650 to 146.666 shall not be dependent on the existence and operation of the museum in a physical place.

(2) The board shall be administratively linked to the Education[~~, Arts, and Humanities~~] Cabinet.

(3) To accomplish the purposes of KRS 146.650 to 146.666, the board is authorized to:

(a) Acquire and hold property by deed, gift, devise, bequest, lease, exchange, purchase, or transfer;

(b) Plan for, develop, construct, and maintain buildings;

(c) Enter into agreements with state, federal, or local agencies;

(d) Employ and contract with individuals, corporations, or other business entities to accomplish the purposes of KRS 146.650 to 146.666;

(e) Accept and administer appropriations, gifts, grants, devises, and bequests of money, securities, or other items of value; and

(f) Carry out any other functions necessary to accomplish the purposes of KRS 146.650 to 146.666.

(4) To accomplish the purposes of KRS 146.650 to 146.666, the board may provide and administer grants to public and private entities.

Section 52. KRS 148.562 is amended to read as follows:

(1) The authority shall be governed by a board of directors consisting of thirteen (13) members as follows:

(a) Secretary of the Tourism Development Cabinet, or his or her designee;

(b) Secretary of the Transportation Cabinet, or his or her designee;

(c) Secretary of the Education[~~, Arts, and Humanities~~] Cabinet, or his or her designee;

(d) Secretary of the Finance and Administration Cabinet, or his or her designee;

(e) Three (3) members appointed by the Governor, one (1) to be a representative of the Kentucky Arts Council, and two (2) to be at-large members; and

(f) Six (6) members appointed by the mayor of the city of Berea to include two (2) representatives of Berea city government, two (2) representatives of Berea College recommended by the president of Berea College, one (1) representative of Eastern Kentucky University recommended by the president of Eastern Kentucky University, and one (1) at-large member.

(2) Members shall serve for staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:

(a) One (1) appointment by the Governor and two (2) appointments by the mayor of the city of Berea shall each serve a term of four (4) years;

(b) Two (2) appointments by the mayor of the city of Berea and one (1) appointment by the Governor shall each serve a term of three (3) years;

(c) One (1) appointment by the Governor and one (1) appointment by the mayor of the city of Berea shall each serve a term of two (2) years; and

(d) One (1) appointment by the mayor of the city of Berea shall serve a term of one (1) year.

(3) The Governor shall appoint a chair from among the members of the board.

(4) A quorum of the board shall consist of seven (7) members, with a majority of members present authorized to act upon any matter legally before the authority.

(5) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance, and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B, relating to administrative hearings.

Section 53. KRS 151B.020 is amended to read as follows:

(1) The ***Education*** Cabinet[~~ for Workforce Development~~] is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, ***units listed in Section 3 of this Act,*** and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:

(a) The Department for ***Workforce Investment is hereby created and established within the Education Cabinet. The department shall be directed and managed by a commissioner appointed by the Governor under the provisions of KRS 12.040. The commissioner shall report to the secretary of the Education Cabinet. The department shall be composed of the following organizational entities set forth in this subsection***[~~Adult Education and Literacy, which is created by KRS 151B.023~~];

1.[~~(b)~~] The ***Office of Career and***[~~Department for~~] Technical Education, which is created by KRS 151B.025;

2.[~~(c)~~] The ***Office***[~~Department~~] of Vocational Rehabilitation, which is created by KRS 151B.185;

3.[~~(d)~~] The ***Office***[~~Department~~] for the Blind established by KRS 163.470;

4.[~~(e)~~] The ***Office of Employment and Training***[~~Department for Employment Services~~], which is created by KRS 151B.280;

(b)[~~(f)~~] The Kentucky Technical Education Personnel Board established in KRS 151B.097;

(c)[~~(g)~~]The Foundation for Adult Education established by KRS 151B.130; ***and***

(d)[~~(h)~~] The Unemployment Insurance Commission established by KRS 341.110[~~; and~~

~~(i) The Department for Training and Reemployment created in KRS 151B.260~~].

(3) The executive officer of the cabinet shall be the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~]. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq.[~~ The Office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Workforce Partnerships, Workforce Analysis and Research, Budget and Administrative Services, Quality and Human Resource Services, and Technology Services. The Office of Budget and Administrative Services shall contain the Division of Fiscal Services. The~~

~~division shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050.~~]

(4) The secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(5) The secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] may delegate any duties of the secretary's office to employees of the cabinet as he or she deems necessary and appropriate, unless otherwise prohibited by statute.

(6) The secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

Section 54. KRS 151B.025 is amended to read as follows:

(1) The ***Office of Career and***[~~Department for~~] Technical Education is hereby created ***within***[~~and shall be attached to~~] the ***Education*** Cabinet[~~ for Workforce Development~~]. The ***office***[~~department~~] shall consist of ***an executive director***[~~a commissioner~~] and those administrative bodies and employees provided ***by*** or appointed pursuant to law.

(2) The chief executive officer of the ***office***[~~department~~] shall be the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education. The ***executive director***[~~commissioner~~] shall be appointed to the unclassified service by the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] with the approval of the Governor pursuant to KRS 12.050. The ***executive director***[~~commissioner~~] shall have general supervision and direction over all functions of the ***office***[~~department~~] and its employees, and shall be responsible for carrying out the programs and policies of the ***office***[~~department~~]. The ***executive director***[~~commissioner~~] may delegate authority to deputies who may then act on his or her behalf in performing the duties assigned in this subsection.

(3) The ***office***[~~department~~] shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area vocational education and technology centers. When appropriate, the ***office***[~~department~~] shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under the ***office's***[~~department's~~] jurisdiction.

(5) Secondary area vocational education and technology centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the Educational Professional Standards Board. In addition to direct appropriations, funds appropriated to support the cost of operating area vocational education and technology centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The ***Office of Career and***[~~Department for~~] Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the ***Office of Career and***[~~Department for~~] Technical Education.

(7) The ***Office of Career and***[~~Department for~~] Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The ***office***[~~department~~] shall involve representatives from all eligible recipient categories in the development of the required plans.

(8) The ***office***[~~department~~] shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching specialties. The agreements and compensation for hard-to-find teaching specialties shall be approved by the ***executive director***[~~commissioner~~] and shall not be subject to the provisions of KRS Chapter 45A. All agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall, from time to time, prepare or cause to be prepared any bulletins, programs, outlines of courses, placards, and courses of study deemed useful in the promotion of the interests of technical and vocational education.

(10) The ***executive director of the Office of Career and Technical Education***[~~commissioner of the department~~] shall be responsible for the preparation of a biennial budget request, which shall be forwarded to the ***executive director of the Office of Budget and Administration for preliminary review and approval. Final approval shall be given by the secretary of the Education Cabinet or his or her designee***[~~secretary of the Cabinet for Workforce Development for review and modification~~].

Section 55. KRS 151B.030 is amended to read as follows:

The *Office for Career and*[~~Department for~~] Technical Education shall *have*[~~be divided according to~~] the following organizational structure:

(1) The *secretary*[~~commissioner~~] of the[~~ Department for Technical~~] Education *Cabinet* shall appoint a deputy *executive director*[~~commissioner~~] for technical education pursuant to KRS 12.050 and assign duties as appropriate.

(2)[~~ There is hereby created a Division of Administrative Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.~~

~~(3)~~] There is hereby created a Division of *Secondary Education and Technical Training*[~~School Services~~] within the *Office of Career and*[~~Department for~~] Technical Education. The division[~~ of School Services~~] shall be headed by a director appointed by the commissioner of the Department for *Workforce Investment*[~~Technical Education~~] under KRS 12.050. The division[~~ of School Services~~] shall be composed of organizational entities as deemed appropriate by the secretary of the *Education* Cabinet[~~ for Workforce Development as set forth by administrative order~~].

(4) The commissioner shall appoint an ombudsman and specify his *or her* functions and duties.

[~~(5) The Kentucky Technical Education Personnel Board, pursuant to KRS 151B.097, shall be attached to the department for administrative purposes.~~]

Section 56. KRS 151B.035 is amended to read as follows:

(1) The *executive director*[~~commissioner~~] of the *Office of Career and*[~~Department for~~] Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the *Office of Career and*[~~Department for~~] Technical Education central office and state-operated vocational facilities. All other staff shall remain under the authority of the Kentucky Personnel Cabinet and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the *executive director*[~~commissioner~~] of the *Office of Career and*[~~Department for~~] Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the *Office of Career and*[~~Department for~~] Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The *executive director*[~~commissioner~~] of the *Office of Career and*[~~Department for~~] Technical Education shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c)[~~ Certification;~~

~~(d)~~] Classification and compensation plans;

(d)[~~(e)~~] Incentive programs;

(e)[~~(f)~~] Selection of employees;

(f)[~~(g)~~] Types of appointments;

(g)[~~(h)~~] Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(h)[~~(i)~~] Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(i)[~~(j)~~] Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;

(j)[~~(k)~~] Employee evaluations;

(k)[~~(l)~~] Programs to improve the work effectiveness of employees including staff development;

(l)[~~(m)~~] Demotion;

(m)[~~(n)~~] Dismissal;

(n)[~~(o)~~] Layoffs;

(o)[~~(p)~~] Suspensions and other disciplinary measures;

(p)[~~(q)~~] Probationary periods, limited employment status, and continuing employment status;

(q)[~~(r)~~] Promotion;

(r)[~~(s)~~] Transfer;

(s)[~~(t)~~] Appeals; and

(t)[~~(u)~~] Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall comply with the provisions of this chapter and KRS Chapter 13A and shall have the force and effect of law, when approved by the commissioner and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the ***Office of Career and***[~~Department for~~] Technical Education.

(5) The commissioner ***of the Department for Workforce Investment***[~~for Technical Education~~] shall be the appointing authority with respect to all personnel actions for the ***Office of Career and Technical Education***[~~department~~]. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Any personnel designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by the commissioner. Any recommendation for employment from the local level shall be based on guidelines promulgated by the ***executive director***[~~commissioner~~] and shall be contingent upon confirmation by the ***executive director***[~~commissioner and the board~~].

(6) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall promulgate other administrative regulations to govern proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the Kentucky Technical Education Personnel Board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the ***Office of Career and***[~~Department for~~] Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall make investigations, either on petition of a citizen, taxpayer, interested party, or as deemed necessary by the ***executive director***[~~commissioner~~], concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of the provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The Kentucky Technical Education Personnel Board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause. Effective August 15, 2000, appeals from assistants and secretaries in the ***Office of Career and***[~~Department for~~] Technical Education[~~ and the Department for Adult Education and Literacy~~] attached to policymaking positions shall be governed by KRS 18A.095. The State Personnel Board, established in KRS 18A.045, shall hear appeals that are pending as of August 15, 2000, from assistants and secretaries attached to policymaking positions in the ***Office of Career and***[~~Department for~~]

Technical Education[~~ and personnel in the Department for Adult Education and Literacy~~].

(10) The Kentucky Technical Education Personnel Board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the ***former*** Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 57. KRS 151B.040 is amended to read as follows:

(1) All certified, equivalent, and unclassified employees in the ***Office of Career and***[~~Department for~~] Technical Education shall be:

- (a) Provided the same health insurance coverage as all other state government employees provided in KRS 18A.225;
- (b) Eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265;
- (c) Provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 to 18A.215;
- (d) Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 in the performance of their official duties; no part of the reimbursement shall be included in or accounted as a part of their salaries;
- (e) Ensured equal employment opportunity regardless of race, color, religion, national origin, disability, sex, or age; and
- (f) Given those holidays and rights granted state employees pursuant to KRS 18A.190.

(2) Employees under the jurisdiction of the ***former*** Department for Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent employees hired by the ***office***[~~departments~~] shall be placed in the Kentucky ***Teachers'***[~~Teacher's~~] Retirement System.

Section 58. KRS 151B.045 is amended to read as follows:

(1) The records of the ***Office of Career and***[~~Department for~~] Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.

(2)

- (a) A personnel file shall be maintained by the ***Education Cabinet***[~~departments~~] for each employee. The files maintained by the ***Education Cabinet***[~~departments~~] shall be the official personnel file for the employees.
- (b) Each file shall include, but not be limited to, the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.
- (c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his or her right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.

(3) Upon written request, an employee shall have the right to examine his or her personnel file. An employee may comment in writing on any item in the file. The comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.

(4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

Section 59. KRS 151B.050 is amended to read as follows:

Except as provided by the provisions of this chapter, the ***appointing authority or designee for the Office of Career and Technical Education***[~~commissioner for adult education and literacy, and the commissioner for technical education~~] may refuse to consider an applicant for a certified or equivalent position, or, after consideration, may disqualify the applicant or may remove an employee already appointed if:

(1) It is found that the person did not maintain certification or that certification has been revoked for the position;

(2) The person is unable to perform the duties of the position;

(3) The person made a false statement of material fact in the application;

(4) The application was not submitted correctly or within the prescribed time limits;

(5) The person has been convicted of a felony within the preceding five (5) years and has not had civil rights restored or has not been pardoned by the Governor;

(6) The person has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

(7) The person has previously been dismissed from a position in his department for cause or has resigned while charges for dismissal for cause of which the person had knowledge were pending; or

(8) The person has otherwise violated the provisions of this chapter.

Section 60. KRS 151B.055 is amended to read as follows:

(1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the ***Office of Career and***[~~Department for~~] Technical Education.

(2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:

  (a) The specific reasons for dismissal including:

    1. The statutory or regulatory violation;

    2. The specific action or activity on which the intent to dismiss is based;

    3. The date, time, and place of the action or activity; and

    4. The name of the parties involved; and

  (b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the ***appointing authority***[~~commissioner~~] or a designee.

(3) The ***Office of Career and***[~~Department for~~] Technical Education shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the ***appointing authority***[~~commissioner~~] or a designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

  (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

  (b) The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the ***appointing authority***[~~commissioner of the Department for Technical Education~~] or a designee.

(5) The appearance shall be held six (6) working days after receipt of an employee's request to appear before the ***appointing authority***[~~commissioner~~] or a designee, excluding the day the employee's request is received, unless the employee and the ***appointing authority***[~~commissioner~~] or a designee agree to a later date.

(6) No later than five (5) working days after the employee appears before the ***appointing authority***[~~commissioner~~] or a designee, excluding the day of the appearance, the ***appointing authority***[~~commissioner~~] or a designee shall:

  (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

  (b) Notify the employee in writing of the decision.

(7) If the ***appointing authority***[~~commissioner~~] or a designee determines that the employee shall be dismissed, the employee shall be notified in writing of:

  (a) The effective date of dismissal or other penalization;

  (b) The specific reason for the action, including:

    1. The statutory or regulatory violation;

    2. The specific action or activity on which the dismissal is based;

    3. The date, time, and place of the action or activities; and

4. The names of the parties involved; and

(c) That the employee may appeal the dismissal to the Kentucky Technical Education Personnel Board within thirty (30) days after receipt of this notification, excluding the day the notice is received.

(8) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:

(a) The demotion or suspension;

(b) The effective date of the demotion or suspension;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the demotion or suspension is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved; and

(d) That the employee has the right to appeal to the Kentucky Technical Education Personnel Board within thirty (30) days, excluding the day of receipt of notification.

(9) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy the records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.

(10) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(11) (a) Appeals to the Kentucky Technical Education Personnel Board shall be in writing on an appeal form prescribed by the ***Office of Career and***[~~Department for~~] Technical Education. Appeal forms shall be available at the employee's place of work. The ***Office of Career and***[~~Department for~~] Technical Education shall be responsible for the distribution of the forms.

(b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer, or other penalization, or notice of any other action an employee may appeal under the provisions of this section.

(c) Upon receipt of the appeal by the board, the ***appointing authority or a designee***[~~commissioner~~] shall be notified, and the board shall schedule a hearing that shall be conducted in accordance with KRS Chapter 13B.

(12) (a) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section and KRS Chapter 13B.

(b) The board may deny a hearing to an employee who has failed to file an appeal over which the board has jurisdiction or within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his or her right to appeal the denial under the provisions of KRS 151B.060.

(c) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon the information.

(13) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(14) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(15) (a) If the board finds that the action complained of was taken by the appointing authority ***or designee*** in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of the individual's sex, age, or disability, the ***appointing authority or designee***[~~commissioner~~] shall immediately reinstate the employee to his or her former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his or her former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and

(d) In all other cases, the board shall rescind the action taken or grant other relief to which the employee is entitled.

(16) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.

Section 61. KRS 151B.065 is amended to read as follows:

(1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of KRS 151B.060, the board shall forward a certified copy of the order to the ***Office of Career and***[~~Department for~~] Technical Education. The ***office***[~~department~~] shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.

(b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.

(c) All other deductions shall be deducted as required by law or by other state regulation.

(2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set-off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.

(b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.

Section 62. KRS 151B.075 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from a committee composed of equal numbers of teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated secondary area vocational education and technology centers shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;

(b) Job knowledge and skills;

(c) Instructional management;

(d) Employee conduct; and

(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Employee conduct; and

(d) Professional responsibility.

(7) There shall be established by the ***executive director***[~~commissioner~~] an evaluation appeals procedure for certified or equivalent personnel in the ***Office of Career and***[~~Department for~~] Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator; and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the state-operated secondary area vocational education and technology centers, this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the ***executive director***[~~commissioner~~] of the ***Office of the Career and***[~~Department for~~] Technical Education who shall make a final ruling. For other employees in the ***Office of Career and***[~~Department for~~] Technical Education, this appeal shall go to the appropriate office head and then to the ***appointing authority or designee***[~~commissioner~~].

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 63. KRS 151B.080 is amended to read as follows:

(1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.

(2) In the same ***office***[~~department~~], county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with continuing status. The ***Office of Career and***[~~Department for~~] Technical Education shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a layoff plan submitted to the ***executive director***[~~commissioner~~] have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.

(5) For a period of three (3) years, laid-off employees shall be considered before any applicant from outside the ***Office of Career and***[~~Department for~~] Technical Education, except another laid-off employee with more seniority who is already on the list.

(6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:

(a) The laid-off employee notifies the ***office***[~~department~~] in writing that he or she no longer wishes to be considered for a position on the list;

(b) Two (2) written offers of appointment are declined, the offers to be for a position of the same classification and salary, and located in the same county or contiguous counties, as the position from which laid off;

(c) Two (2) written offers to schedule an interview are made and the laid-off employee fails to respond to a certified letter requesting the laid-off employee to schedule an interview within ten (10) working days;

(d) The laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;

(e) The laid-off employee cannot be located by postal authorities at the last address provided; or

(f) The laid-off employee has willfully violated the provisions of this chapter.

(7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.

(8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of KRS 151B.055.

Section 64. KRS 151B.085 is amended to read as follows:

(1) A layoff of an employee with continuing status in the ***Office of Career and***[~~Department for~~] Technical Education due to the abolition of a position, lack of funds, or economic or employment trends resulting in a lack of work or a material change in duties or organization shall comply with the provisions of this section.

(2) Prior to the notification of layoff and prior to the layoff of an employee, the department shall prepare a layoff plan. The plan shall contain the name of the employee and the reasons, in detail, for the layoff. Upon approval of the plan by the ***appointing authority or designee***[~~commissioner~~], the employee shall be notified of the pending layoff, and of:

(a) The reason for the layoff;

(b) The procedures established by the provisions of KRS 151B.080, and this section for the layoff of employees; and

(c) The rights granted employees subject to layoff and to laid-off employees.

(3) (a) An employee subject to layoff shall be considered for a vacant position within the ***office***[~~department~~] of the same pay grade, level of duties, and responsibilities for which the employee is qualified.

(b) If a vacancy does not exist, the employee shall be considered for any vacant position within his ***office***[~~department~~] for which qualifications are held.

(4) If no position is available to an employee subject to layoff under the procedure established by subsection (3) of this section, the employee shall be notified of the layoff in writing at least thirty (30) days prior to implementation of the layoff.

Section 65. KRS 151B.097 is amended to read as follows:

(1) The Kentucky Technical Education Personnel Board is hereby established to conduct personnel appeals from certified and equivalent employees in the ***Office of Career and***[~~Department for~~] Technical Education under KRS Chapter 151B. Appeals shall be conducted in accordance with the provisions established in KRS Chapter 13B. The board shall be attached to the ***Office of Career and***[~~Department for~~] Technical Education for administrative purposes.

(2) The Kentucky Technical Education Personnel Board shall be composed of five (5) voting members, three (3) of whom shall be selected from employees of agencies within the ***Education*** Cabinet[~~ for Workforce Development~~], except no member shall be an employee within the Office of the Secretary or the ***Office of Career and***[~~Department for~~] Technical Education. The remaining two (2) members shall be teachers employed by the ***Office of Career and***[~~Department for~~] Technical Education's Area Technology Centers. The election of the teacher representatives may be conducted by written ballot, Internet balloting, intranet balloting, or electronic mail. The teacher candidates may be present when the balloting is tallied. All votes cast shall be tallied by an independent entity.

(a) The Governor shall appoint the two (2) members elected by the teachers employed by the ***Office of Career and***[~~Department for~~] Technical Education's Area Technology Centers and the three (3) members selected from employees of agencies within the ***Education*** Cabinet[~~ for Workforce Development~~]. All members shall be appointed by the Governor to four (4) year terms, and each term shall end on June 30 of the fourth year. Terms of new members or reappointed members shall begin on July 1 of the year beginning their term. If a vacancy occurs during a term, the Governor shall appoint a replacement to serve the remainder of the unexpired term within thirty (30) days of the vacancy. The Governor shall select a replacement from the group where the vacancy occurred. The manner of selection for the replacement shall be the same as the manner of the original selection.

(b) The members shall possess an understanding of the personnel system established in KRS Chapter 151B.

(c) A chair shall be elected annually by members of the board.

(3) The board shall meet as necessary to comply with time frames for conducting personnel appeals under KRS Chapter 13B and KRS Chapter 151B, and at other times as deemed necessary by the chair of the board. For meetings of the board, a majority of the voting members shall be present to constitute a quorum for the transaction of business.

(4) The ***Office of Career and***[~~Department for~~] Technical Education shall provide administrative, budgetary and support staff services for the board.

(5) Employees of the ***Education*** Cabinet[~~ for Workforce Development~~] who serve as members of the board shall not receive additional salary for serving as members on the board. However, upon approval of the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education, board members shall be entitled to reimbursement of

actual and necessary expenses incurred while performing their duties as an active member of the board.

(6) During personnel appeals conducted by the board, both parties shall be given the opportunity to have a representative present at each step of the process.

Section 66. KRS 151B.112 is amended to read as follows:

The ***Office of Career and***[~~Department for~~] Technical Education shall have the management and control of state-operated secondary area vocational education and technology centers, and all programs and services operated in these centers.

Section 67. KRS 151B.120 is amended to read as follows:

(1) The ***vice president for the Kentucky Adult Education Program, Council on Postsecondary Education,***[~~commissioner of the Department for Adult Education and Literacy~~] and the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the secretary of the ***Education***[~~Workforce Development~~] Cabinet and shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the appropriate ***agency head***[~~commissioner~~]. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) ***The vice president and the executive director***[~~Each commissioner~~] may approve authorization for his ***or her agency***[~~department~~] to enter into ***agreements***[~~agreement~~] with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 68. KRS 151B.125 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

(1) For purposes of any public employment, a high school equivalency diploma or a regular high school diploma obtained through participation in the external diploma program shall be considered equal to a high school diploma issued under the provisions of KRS 158.140.

(a) A high school equivalency diploma shall be issued without charge upon successfully passing the test given by the ***Kentucky Adult Education Program's***[~~Department for Adult Education and Literacy~~] approved testing centers in conformance with requirements of the General Educational Development Testing Service of the American Council on Education. A fee may be assessed by the Department for Adult Education and Literacy for the issuance of a duplicate high school equivalency diploma and for issuance of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.

(b) As an alternative to receiving a high school equivalency diploma, persons who are twenty-five (25) years or older may obtain a high school diploma through participation in the external diploma program. The diploma shall be issued upon achieving one hundred percent (100%) mastery on the competencies established by the American Council on Education. The ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] may enter into agreements with local school districts to confer the high school diploma on successful participants in the external diploma program.

(2) The ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring the GED examination essay.

Section 69. KRS 151B.127 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

The General Assembly recognizes the critical condition of the educational level of Kentucky's adult population and seeks to stimulate the attendance at, and successful completion of, programs that provide a high school equivalency diploma. Incentives shall be provided to full-time employees who complete a high school equivalency diploma program within one (1) year and their employers. For purposes of this section "equivalent diploma" means a high school equivalency diploma issued after successful completion of the General Educational Development tests.

(1) The ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] in conjunction with the Council on Postsecondary Education shall promulgate administrative regulations to establish the operational procedures for this section. The administrative regulations shall include, but not be limited to, the criteria for:

(a) A learning contract that includes the process to develop a learning contract between the student and the adult education instructor with the employer's agreement to participate and support the student;

(b) Attendance reports that validate that the student is studying for the high school equivalency diploma during the release time from work;

(c) Final reports that qualify the student for the tuition discounts under subsection (2)(a) of this section and that qualify the employer for tax credits under subsection (3) of the section.

(2) (a) An individual who has been out of secondary school for at least three (3) years, develops and successfully completes a learning contract that requires a minimum of five (5) hours per week to study for the high school equivalency diploma tests, and passes the tests shall earn a tuition discount of two hundred fifty dollars ($250) per semester for a maximum of four (4) semesters at one (1) of Kentucky's public postsecondary institutions.

(b) The ***program***[~~department, with the cooperation of the Council on Postsecondary Education,~~] shall work with the postsecondary institutions to establish notification procedures for students who qualify for the tuition discount.

(3) An employer who assists an individual to complete his or her learning contract under the provisions of this section shall receive a state income tax credit for a portion of the released time given to the employee to study for the tests. The application for the tax credit shall be supported with attendance documentation provided by the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] and calculated by multiplying fifty percent (50%) of the hours released for study by the student's hourly salary, and not to exceed a credit of one thousand two hundred fifty dollars ($1250).

Section 70. KRS 151B.130 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.

(3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the cabinet.

(4) The foundation shall be attached to the office of the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] for administrative purposes.

Section 71. KRS 151B.150 is amended to read as follows:

The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education is vested with the authority to carry out the purposes of the program of vocational education and the provisions of the Acts of Congress accepted by KRS 151B.145, and is given all the necessary power and authority in promulgating administrative regulations and administering vocational education and carrying out the provisions of the acts relating thereto.

Section 72. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state secondary area vocational education and technology centers operated by the ***Office of Career and***[~~Department for~~] Technical Education shall be free to all residents of Kentucky. The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall fix the rate of tuition and fees for adults who are enrolled in secondary programs in the state-operated area vocational education and technology centers under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Community and Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Community and Technical College System.

Section 73. KRS 151B.170 is amended to read as follows:

The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education may provide liability insurance for licensed and nonlicensed motor vehicles owned or operated by the ***Office of Career and***[~~Department for~~] Technical Education in vocational schools and centers. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence in such amounts as the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education designates. In either case the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 74. KRS 151B.155 is amended to read as follows:

The State Treasurer is custodian of all money received by the state from the federal government under the federal acts accepted by KRS 151B.145, and the State Treasurer shall collect the money and pay it out upon the order of the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~].

Section 75. KRS 151B.175 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education is authorized to provide medical and accident insurance for students enrolled in the state secondary area technology centers and area vocational education centers. The ***Office of Career and***[~~Department for~~] Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident

insurance coverage and to provide group coverage to all students enrolled in state-operated schools under its jurisdiction. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall promulgate administrative regulations to implement the medical and accident insurance program. The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education may fix the rate of fees for all secondary students, the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as he or she deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education.

Section 76. KRS 151B.185 is amended to read as follows:

(1) The ***Office***[~~Department~~] of Vocational Rehabilitation is hereby created and shall be attached to the ***Education*** Cabinet[~~ for Workforce Development~~]. The ***office***[~~department~~] shall consist of ***an executive director***[~~a commissioner~~] and those administrative bodies and employees provided or appointed pursuant to law. The ***office***[~~department~~] shall be composed of ***the Division of***[~~Divisions of Administrative Management, Program Planning and Development,~~] Program Services[~~,~~] and the ***Division of the*** Carl D. Perkins Comprehensive Rehabilitation Center. Each division shall be headed by a ***division*** director appointed by the ***secretary of the Education Cabinet under the provisions of KRS 12.050***[~~commissioner of the Department of Vocational Rehabilitation~~], and shall be composed of organizational entities as deemed appropriate by the ***secretary of the Education Cabinet***[~~commissioner of the Department of Vocational Rehabilitation, as set forth by administrative order~~].

(2) The ***Office***[~~Department~~] of Vocational Rehabilitation shall have such powers and duties as contained in KRS 151B.180 to 151B.210 and such other functions as may be established by administrative regulation.

(3) The ***office***[~~department~~] shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational rehabilitation.

(4) The chief executive officer of the ***office***[~~department~~] shall be the ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Vocational Rehabilitation. The ***executive director***[~~commissioner~~] shall be appointed by the ***commissioner of the Department of Workforce Investment under the provisions of KRS 12.050***[~~secretary of the Cabinet for Workforce Development~~]. The ***executive director***[~~commissioner~~] shall have experience in vocational rehabilitation and supervision and shall have general supervision and direction over all functions of the ***office***[~~department~~] and its employees, and shall be responsible for carrying out the programs and policies of the ***office***[~~department~~].

(5) Except as otherwise provided, the ***office***[~~department~~] shall be the state agency responsible for all rehabilitation services and for other services as deemed necessary. The ***office***[~~department~~] shall be the agency authorized to expend all state and federal funds designated for rehabilitation services. The office of the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services.

(6) Employees under the jurisdiction of the ***Office***[~~Department~~] of Vocational Rehabilitation who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems.

Section 77. KRS 151B.195 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Vocational Rehabilitation shall prescribe administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency; may enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned; may establish and supervise the operation of small businesses established pursuant to KRS 151B.180 to 151B.210 to be conducted by eligible individuals with severe disabilities; and may establish state funded special programs for vocational rehabilitation in the state vocational rehabilitation agency.

(2) Except as provided in KRS 151B.190, the ***executive director***[~~commissioner~~] may prescribe administrative regulations to establish fees for services provided to individuals or entities, public or private.

(3) The ***executive director***[~~commissioner~~] is authorized to provide liability insurance or an indemnity bond against the negligence of drivers of motor vehicles owned or operated by the ***office***[~~department~~] for the transportation of applicants or clients of the ***office***[~~department~~]. If the transportation is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence to such amounts as the ***executive director***[~~commissioner~~] designates. In either case, the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any applicant or client or other person, or death or injury of any applicant or client or other person.

(4) The provisions of any other statute notwithstanding, the ***executive director***[~~commissioner~~] is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income

recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

Section 78. KRS 151B.205 is amended to read as follows:

The State Treasurer is hereby designated as the custodian of all funds. The State Treasurer shall make disbursements for vocational rehabilitation purposes upon certification by the ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Vocational Rehabilitation.

Section 79. KRS 151B.210 is amended to read as follows:

The ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Vocational Rehabilitation may[~~,~~] accept and use gifts made by will or otherwise for carrying out the purposes of KRS 151B.180 to 151B.210. Gifts made under such conditions as in the judgment of the ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Vocational Rehabilitation are proper and consistent with the provisions of KRS 151B.180 to 151B.210 may be so accepted and shall be held, invested, reinvested, and used in accordance with the provisions of KRS 151B.180 to 151B.210.

Section 80. KRS 151B.225 is amended to read as follows:

(1) There is hereby created a Client Assistance Program which is assigned for administrative purposes to the Office of ***Legal***[~~Budget and Administrative~~] Services within[~~ the office of the secretary of~~] the ***Education*** Cabinet[~~ for Workforce Development~~].

(2) The Client Assistance Program shall pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatment, services, or rehabilitation under the Rehabilitation Act of 1973, as amended. If additional resources are required to perform the duties and responsibilities of the Client Assistance Program, the cabinet, on behalf of the Client Assistance Program, may contract with other state agencies to obtain necessary legal or other professional services.

(3) The Office of ***Legal***[~~Budget and Administrative~~] Services shall serve as the agency in charge of all personnel, equipment, records, files, and funds pertaining to the Client Assistance Program as provided for in the Rehabilitation Act of 1973, as amended.

Section 81. KRS 151B.230 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Workforce Development." The purpose of the foundation shall be to supplement public funding for technical education programs in order to expand existing skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used to fund technical education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the technical skill level of their employees.

(3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] based on recommendations from business, industry, labor, education, and interested citizens. Staff assistance for the board of trustees shall be provided by the ***Office of Career and***[~~Department for~~] Technical Education.

(4) The foundation shall be attached to[~~ the office of the secretary of~~] the ***Education*** Cabinet[~~ for Workforce Development~~] for administrative purposes.

(5) The foundation shall report its finances consistent with statutes and regulations promulgated by the Finance and Administration Cabinet. An annual report shall be made to the Interim Joint Committee on Appropriations and Revenue. This report shall follow generally accepted accounting procedures and shall include a detail reporting on all moneys acquired and expended.

Section 82. KRS 151B.240 is amended to read as follows:

(1) The Statewide Independent Living Council is hereby created and attached to the ***Office***[~~Department~~] of Vocational Rehabilitation for administrative purposes to accomplish the purposes enumerated in 29 U.S.C. sec. 796d (Title VII, Part A, Section 705 of the Rehabilitation Act Amendments of 1998). Members of the council shall be appointed by the Governor from recommendations submitted by the ***Office***[~~Department~~] of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities representing geographical and disability diversity as well as representatives from identified service providers and other entities. The composition, qualifications, and terms of service of the council shall conform to the federal law.

(2) (a) Except as provided in paragraph (b) of this subsection, any vacancy occurring in the membership of the Statewide Independent Living Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.

(b) The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(3) Each member of the Statewide Independent Living Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate

and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide Independent Living Council. The per diem and expenses shall be paid out of the federal funds appropriated under Title VII, Chapter 1, Part A, and Title VII, Chapter 1, Part C of the Rehabilitation Act Amendments of 1998, Pub. L. 105-220.

Section 83. KRS 151B.245 is amended to read as follows:

(1) The Statewide Council for Vocational Rehabilitation is hereby created within the ***Office***[~~Department~~] of Vocational Rehabilitation to accomplish the purposes and functions enumerated in 29 U.S.C. sec. 725 (Title I, Part A, Section 105 of the Rehabilitation Act Amendments of 1998). Members of the council shall be appointed by the Governor from recommendations submitted by the ***Office***[~~Department~~] of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities not employed by the ***office***[~~department~~] as well as representatives of specified organizations, service providers, and advocacy groups. The compensation, qualifications, and terms of service of the council shall conform to the federal law.

(2) (a) Except as provided in paragraph (b) of this subsection, any vacancy occurring in the membership of the Statewide Council for Vocational Rehabilitation shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.

(b) The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(3) Each member of the Statewide Council for Vocational Rehabilitation may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide Council for Vocational Rehabilitation. The per diem and expenses shall be paid out of the federal funds appropriated under Title I, Part A, of the Rehabilitation Act Amendments of 1998, Pub. L. 105-220.

Section 84. KRS 151B.250 is amended to read as follows:

(1) It is the intent of the General Assembly to create and support a School-to-Careers System that involves business, labor, education, and government to prepare students for careers in an ever-changing economy.

(2) The ***Office of Career and***[~~Department for~~] Technical Education within the ***Education*** Cabinet[~~ for Workforce Development~~] shall coordinate the School-to-Work effort with the Kentucky Department of Education. As the School-to-Work effort is a federally supported program that fits within the overall mission of the School-to-Careers System, it is critical that collaboration and coordination occur. The following elements shall be coordinated when possible:

(a) Planning and partner involvement of business, labor, education, government, community-based organizations, employers, parents, and students;

(b) Career awareness, exploration, preparation, and guidance incorporated in the school curriculum;

(c) A comprehensive system approach from the primary through postsecondary levels with all students having the opportunity to participate;

(d) Applied learning experiences;

(e) Integration of academic and occupational education;

(f) Performance assessment;

(g) Actual or simulated learning at the school or the worksite;

(h) Curriculum based on skill standards representing all aspects of an industry;

(i) Secondary to postsecondary articulation;

(j) Postsecondary articulation; and

(k) Professional development opportunities for all partners.

(3) The ***Office of Career and***[~~Department for~~] Technical Education may promulgate administrative regulations establishing policy for the development and implementation of a school-to-work transition system.

(4) The ***Office of Career and***[~~Department for~~] Technical Education shall comply with the provisions of the federal School-to-Work Opportunities Act, Pub.L. 103-239 as it is amended from time to time.

Section 85. KRS 151B.280 is amended to read as follows:

(1) The ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] is created and ***established within the Department of Workforce Investment within***[~~shall be attached to~~] the ***Education*** Cabinet[~~ for Workforce Development~~]. The ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] shall develop and operate employment development and placement programs, including job recruitment and business liaison functions, employability development and training programs, and job counseling and placement programs of the cabinet. In addition, the ***office***[~~department~~] shall develop and operate all programs relating to the unemployment insurance laws of the Commonwealth, including responsibilities relating to hearing and judging unemployment insurance benefit appeals.

(2) The ***Office of***~~[Department for]~~ Employment ***and Training***~~[Services]~~ shall be headed by ***an executive director***~~[a commissioner]~~ appointed by the secretary with the approval of the Governor, in accordance with KRS 12.050. The ***executive director***~~[commissioner]~~ for employment ***and training***~~[services]~~ shall be a person who, by experience and training in administration and management, is qualified to perform the duties of the office. The ***executive director***~~[commissioner]~~ of employment services shall exercise authority over the ***Office of***~~[Department for]~~ Employment ***and Training***~~[Services]~~ under the direction of the ***commissioner of Workforce Investment***~~[secretary]~~, and shall fulfill only the responsibilities delegated by the secretary.

(3) (a) The ***commissioner of***~~[secretary of the Cabinet for]~~ Workforce ***Investment***~~[Development]~~ shall develop and promulgate administrative regulations which protect the confidential nature of all records and reports of the ***Office of***~~[Department for]~~ Employment ***and Training***~~[Services]~~ which directly or indirectly identify a client or former client and which insure that these records are not disclosed to or by any person except and insofar as:

1. The person identified shall give his consent; or

2. Disclosure may be permitted under state or federal law.

(b) Notwithstanding any other state statute or administrative regulation to the contrary, any information concerning individual clients or applicants in the possession of the ***Office of***~~[Department for]~~ Employment ***and Training***~~[Services]~~ may be shared with any authorized representative of any other state or local governmental agency, if the agency has a direct, tangible, and legitimate interest in the individual. The agency receiving the information shall assure the confidentiality of all information received. The ***Office of***~~[Department for]~~ Employment ***and Training***~~[Services]~~ may share information concerning a client or applicant with any private or quasi-private agency if:

1. The agency has an agreement with the cabinet assuring the confidentiality of the information; and

2. The agency has a direct, tangible, and legitimate interest in the individual.

Section 86. KRS 151B.285 is amended to read as follows:

The ***Education*** Cabinet~~[for Workforce Development]~~ shall administer and supervise state employment offices and perform any other duties within the Act of Congress entitled "An Act to provide for the establishment of a National Employment Service and for Cooperation with the State in the Promotion of Such System and for Other Purposes," approved June 6, 1933 (48 Stat. 113, U.S.C., Title 29, sec. 49(c)), as amended, and known as the Wagner-Peyser Act. All duties and powers relating to the establishment, maintenance, and operation of free public employment offices are vested in the ***Education*** Cabinet~~[for Workforce Development]~~. The provisions of the Wagner-Peyser Act, as amended, are accepted by this state. in conformity with Section 4 of that Act, and this state will observe and comply with the requirements of that Act. The ***Education*** Cabinet~~[for Workforce Development]~~ is designated and constituted the agency of this state for the purposes of the Wagner-Peyser Act.

Section 87. KRS 151B.410 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

(1) The ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~ shall promulgate necessary administrative regulations and administer a statewide adult education and literacy system throughout the state. The adult education and literacy system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.

(a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical colleges, community colleges, regional universities, adult education centers, public schools, libraries, family resource centers, adult correctional facilities, other institutions, and through the Kentucky Commonwealth Virtual University. Services shall be targeted to communities with the greatest need based on the number of adults at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy Survey and other indicators of need.

(b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.

(c) Multiple funding sources, program support, and partnerships to administer the adult education and literacy system may include student scholarship and grants; fees for services rendered; and other general, agency, local, state, federal, and private funds.

(2) Services included as part of the adult education and literacy system shall include, but not be limited to functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computating, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills.

(3) In administering an adult education and literacy system, the ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~ shall:

(a) Assist providers with the development of quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including high school equivalency diploma preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

(b) Provide assessments of each student's skill and competency level allowing assessments to be shared with other educational and employment entities when necessary for providing additional educational programs, taking into consideration student confidentiality;

(c) Assist adult educators to meet professional standards;

(d) Create an awareness program in cooperation with the Administrative Office of the Courts to ensure that District and Circuit Court Judges are aware of the provisions of KRS 533.200 and the methods to access adult education and literacy programs for persons sentenced under the statute;

(e) Develop administrative regulations including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;

(f) Require and monitor compliance with the department's administrative regulations and policies; and

(g) Develop and implement performance measures and benchmarks.

Section 88. KRS 151B.450 is amended to read as follows:

As used in KRS 151B.450 to 151B.475, unless the context requires otherwise:

(1) "Assistive technology" means any item, piece of equipment, or device that enables an individual with a disability to improve his or her independence and quality of life.

(2) "Board" means the board of directors of the Kentucky Assistive Technology Loan Corporation.

(3) "Cabinet" means the ***Education*** Cabinet[~~ for Workforce Development~~].

(4) "Corporation" means the Kentucky Assistive Technology Loan Corporation created under KRS 151B.455.

(5) "Fund" means the Kentucky assistive technology loan fund created under KRS 151B.470.

(6) "Qualified borrower" means an individual with a disability that affects a major life activity such as mobility, sensory and cognitive communications, or self-care, a parent or legal guardian of an individual with a disability, or a nonprofit organization that provides assistive technology to individuals with disabilities who meet the criteria for participating in the Kentucky assistive technology loan fund.

(7) "Qualified lender" means a financial lending institution or other qualified organization contracted with by the corporation to provide loans for the purchase of assistive technology.

Section 89. KRS 151B.455 is amended to read as follows:

(1) The Kentucky Assistive Technology Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions for the purpose of improving the quality of life for disabled persons who are residents of the Commonwealth of Kentucky by providing the ability to obtain low-interest loans to qualified borrowers for the acquisition of assistive technology.

(2) The corporation shall be governed by a board of directors consisting of seven (7) members as follows:

(a) The secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] or the secretary's designated representative;

(b) One (1) attorney with lending expertise;

(c) One (1) representative of a financial lending institution; and

(d) Four (4) public members with a knowledge of assistive technology representing a range of disabilities.

(3) All board members shall be residents of the Commonwealth of Kentucky and all, with the exception of the secretary or the secretary's designee, shall be appointed by the Governor. Each public member shall be an individual with a disability, a parent of an individual with a disability, or a legal representative of an individual with a disability. In making appointments the Governor shall seek recommendations from disability-related associations and organizations representing the categories of disabilities for which appointments are being made.

(4) For initial appointments to the board, two (2) public members shall be appointed for terms of four (4) years each, two (2) public members for terms of three (3) years each, the attorney member for a term of two (2) years, and the member representing a financial lending institution for a term of one (1) year. All succeeding terms shall be for a period of four (4) years each, and each appointee shall serve for the appointed term and until a successor has been appointed and has duly qualified. No person shall serve more than two (2) successive full terms.

(5) If a vacancy on the board occurs, the Governor shall appoint a replacement who shall hold office during the remainder of the term vacated.

(6) The Governor may remove any board member in case of incompetency, neglect of duties, gross immorality, or malfeasance in office, and may upon removal declare the position vacant and appoint a person to fill the vacancy as provided in other cases of vacancy. If a board member is so removed, he or she may appeal. Upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 90. KRS 151B.460 is amended to read as follows:

(1) At the first board meeting following initial appointment of all board members, the board shall elect a chair from its

membership, and a chair shall be elected annually thereafter.

(2) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies on the board of directors.

(3) The board of directors shall meet at least once a quarter, and may meet at other times upon call of the chair or at the request of a majority of board members, and with a minimum of seven (7) days' notice.

(4) Board members shall receive no compensation for their services but may be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under KRS 151B.450 to 151B.475, subject to the availability of funding.

(5) If any board member has a direct or indirect interest in any qualified lender or any organization serving as a qualified borrower, the interest shall be disclosed and set forth in the minutes of the board, and the board member having the interest shall not participate in any action involving the organization in which he or she has the interest.

(6) The ***Education*** Cabinet[~~ for Workforce Development~~] shall provide technical, clerical, and administrative assistance to the board, together with necessary office space and personnel, and shall provide any other services and support necessary for the board to perform its functions. The cabinet shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers which constitute the official records of the corporation. The board may enter into a contract with the cabinet as may be proper and appropriate for the provision of these services.

Section 91. KRS 151B.470 is amended to read as follows:

(1) There is established in the State Treasury a permanent and perpetual fund to be known as the assistive technology loan fund, consisting of moneys that may be appropriated by the General Assembly, gifts, bequests, endowments, or grants from the United States government, its agencies and instrumentalities, and any other available sources of funds, public and private. Any fund balance at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in the fund shall be continuously appropriated only for the purposes specified in this section. Interest and income earned from the investment of funds shall remain in the fund and be credited to it.

(2) The fund shall be used to provide loans to qualified borrowers within the Commonwealth for the purpose of acquiring assistive technology designed to help individuals with disabilities become more independent. Loans shall be made to qualified borrowers through qualified lenders with the fund being used as appropriate to negotiate reduced interest rates, to buy down interest rates, and to provide loan guarantees.

(3) The fund shall be under the administrative control of the board.

(4) If the corporation is dissolved, any unencumbered moneys appropriated by the General Assembly remaining in the fund shall revert to the general fund, and any other unencumbered moneys shall be transferred to the ***Education*** Cabinet[~~ for Workforce Development~~] to be expended for programs and services for Kentuckians with disabilities.

Section 92. KRS 153.180 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.

(2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:

(a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.

(b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.

(3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.

(4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting

requirements.

(5) The foundation shall be attached to the office of the secretary for the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.

(6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

Section 93. KRS 153.215 is amended to read as follows:

(1) There is established the Kentucky Arts Council (hereinafter referred to as "the council") which shall perform functions pursuant to KRS 153.210 to 153.235.

(2) The purpose of the council shall be to develop and promote a broadly conceived state policy of support for the arts in Kentucky pursuant to KRS 153.210 to 153.235.

(3) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the arts. On July 1, 1972, the Governor shall appoint not more than four (4) members for a term of one (1) year; not more than four (4) members for a term of two (2) years; not more than four (4) members for a term of three (3) years; and not more than four (4) members for a term of four (4) years. Thereafter the Governor shall make all appointments for a term of four (4) years, except that of the members appointed after July 15, 1998, four (4) members appointed to fill the terms expiring July 1, 1999, shall serve until February 1, 2000; four (4) members appointed to fill the terms expiring July 1, 2000, shall serve until February 1, 2001; four (4) members appointed to fill the terms expiring July 1, 2001, shall serve until February 1, 2002; and members appointed to fill the terms expiring July 1, 2002, shall serve until February 1, 2003; and subsequent appointments shall be for four (4) year terms ending on February 1.

(4) Council members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties under KRS 153.210 to 153.235.

(5) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(6) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(7) The council shall be attached to the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet as an independent administrative body.

(8) The council shall be headed by an executive director appointed by the secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet upon recommendation of the council.

Section 94. KRS 153.220 is amended to read as follows:

The duties and functions of the arts council shall be to:

(1) Stimulate and encourage throughout the state the study and presentation of the arts, and foster public interest and participation therein;

(2) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;

(3) Encourage and assist freedom of artistic expression essential for the well-being of the arts;

(4) Serve as the sole agency in the Commonwealth for administration of a state arts plan developed in coordination with the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet;

(5) Establish standards and procedures and advisory committees as necessary to advise the Governor on the selection of the Kentucky poet laureate or writer laureate;

(6) Advise the Governor on matters pertaining to the arts;

(7) Adopt and promulgate regulations for the performance of its duties and functions provided in KRS 153.210 to 153.235;

(8) Receive federal grants, and other money and property of any nature whatsoever which may be given, donated, conveyed, bequeathed, devised, or otherwise transferred, without condition or restriction, except that provided by law, other than that it be used for some purpose of the council as permitted by KRS 153.210 to 153.235;

(9) Contract from time to time, as appropriate, with experts and consultants who may be utilized as deemed necessary, and make other necessary purchases and expenditures, all in accordance with the state plan approved by the secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet and with the state purchasing provisions of KRS Chapters 45 and 45A;

(10) Hold public and private hearings for the purpose of furthering the objectives of the council's programs; and

(11) Make and sign any agreements, subject to the provisions of KRS Chapters 45 and 45A, and do and perform any acts that may be necessary to carry out the purposes of KRS 153.210 to 153.235.

Section 95. KRS 153.410 is amended to read as follows:

(1) The Kentucky Center for the Arts Corporation is hereby established, and shall consist of fifteen (15) members representing

metropolitan Louisville and Kentucky to be appointed by the Governor, who shall also designate a chairman. Initial terms shall be staggered; thereafter, members shall be appointed to four (4) year terms.

(2) Members may be removed by the Governor only for cause after being afforded notice, a hearing with counsel before the Governor or his designee, and a finding of fact by the Governor. A copy of charges, transcript of the record of the hearings, and findings of fact shall be filed with the Secretary of State.

(3) The Kentucky Center for the Arts Corporation shall be a body corporate with full corporate powers. A quorum of the corporation shall consist of eight (8) members, with a majority of members present authorized to act upon any matter legally before the corporation. Full minutes and records shall be kept of all meetings of the corporation and all official actions shall be recorded.

(4) The corporation may enact bylaws concerning the election of other officers, the creation of an executive committee with full authority to act between regular meetings, and the designation of alternates for members with full voting authority.

(5) The corporation shall be attached to the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet for administrative purposes.

Section 96. KRS 153.620 is amended to read as follows:

(1) April 24 of each year is declared to be "Kentucky Writers' Day."

(2) The ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet may plan and direct a yearly event on April 24 honoring Kentucky writers. These plans may include designing programs for schools and civic or business organizations.

Section 97. KRS 154.10-050 is amended to read as follows:

(1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.

(2) The board shall set the salary of the secretary, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; submit the strategic plan for economic development to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the board in accordance with the provisions of KRS 154.10-140; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.

(4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.

(5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(6) The secretary shall, in carrying out the duties and responsibilities of the office and in administering the programs in KRS 154.12-216 to 154.12-278, give highest priority consideration in marketing, targeting, and recruiting new businesses, in expanding existing businesses, and in recommending state economic development loans, grants, and incentive programs administered by the authority, to Kentucky counties which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] within the ***Department of Workforce Investment in the Education*** Cabinet[~~ for Workforce Development~~].

Section 98. KRS 154.12-203 is amended to read as follows:

(1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.

(2) It shall be the purpose of the Kentucky Commission on Military Affairs to:

(a) Address matters of military significance to Kentucky;

(b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;

(c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;

(d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;

(e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;

(f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;

(g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;

(h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky;

(i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and

(j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.

(3) The Kentucky Commission on Military Affairs shall consist of:

(a) The Governor, or his designated representative;

(b) The secretary of the Cabinet for Economic Development, or his designated representative;

(c) The adjutant general of the Commonwealth, or his designated representative;

(d) The executive director of the Kentucky Long-Term Policy Research Center, or his designated representative;

(e) The secretaries of the following cabinets, or their designees:

1. Finance and Administration;

2. Families and Children;

3. Justice;

4. Natural Resources and Environmental Protection;

5. Transportation;

6.[~~ Workforce Development;~~

~~7.~~] Education, Arts, and Humanities;

7.[~~8.~~] Health Services;

8.[~~9.~~] Revenue; and

9.[~~10.~~] Labor;

(f) The Attorney General, or his designee;

(g) The commissioner of the Department of Veterans' Affairs or a designee;

(h) The executive director of the Kentucky Commission on Military Affairs or a designee;

(i) Kentucky's Civilian Aide to the Secretary of the United States Army;

(j) Two (2) members of the Kentucky General Assembly, with experience in or an interest in military and defense-related issues, one (1) member to be appointed by the President of the Senate, and one (1) member to be appointed by the Speaker of the House;

(k) The commander or the designee of the commander of each of the following as nonvoting, ex officio members:

1. Fort Campbell;

2. Fort Knox;

3. United States Army Recruiting Command;

4. Bluegrass Army Depot;

5. Louisville District of the United States Army Corps of Engineers;

6. The One Hundredth Training Division;

7. Technology Park of Greater Louisville; and

8. Any other installation or organization, including but not limited to the United States Coast Guard, Air Force, Navy, and Marine Corps, with a military mission in the Commonwealth; and

(l) Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.

(4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.

(5) (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans'

Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee.

(b) The chair and vice chair of the commission shall also serve as chair and vice chair of the executive committee.

(c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.

(6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.

(9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.

(10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.

(11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 99. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of ***Workforce Investment or his or her designee***[~~Employment Services~~], the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the president of the Council on Postsecondary Education, the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] and the president of the Kentucky Community and Technical College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 100. KRS 154.12-207 is amended to read as follows:

(1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions, and business and industry, not in excess of two hundred thousand dollars ($200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.

(2) To qualify for a grant-in-aid in which an educational institution will provide training, an educational institution and a business or industry shall submit a joint application to the corporation that contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities, and materials; and with respect to educational institutions only, a statement of the technical assistance and financial support for the program received or pledged from business and industry. To qualify for a grant-in-aid in which a provider other than an educational institution will provide training, the business or industry may independently submit a proposal to the corporation containing the same information as set forth in this subsection.

(3) Approval of the grant-in-aid application by the board shall be based upon the following criteria:

(a) The program must be within the scope of KRS 154.12-204 to 154.12-208;

(b) Participants in the program must be limited to a Kentucky resident, as the term is defined in KRS 141.010;

(c) The program must involve an area of skills training and education which is needed by business and industry and for which a shortage of qualified individuals exists within the Commonwealth;

(d) The grant-in-aid must be essential to the success of the program as the resources of the educational institution are inadequate to attract the technical assistance and financial support necessary from business and industry;

(e) The educational institution must have obtained a firm commitment from business and industry for the information, technical assistance, and financial support which, together with the grant-in-aid, the resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid;

(f) The educational institution must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation; and

(g) Ninety percent (90%) of the participants receive a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the business and industry is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] within the ***Department of Workforce Investment in the Education*** Cabinet[~~ for Workforce Development~~].

Section 101. KRS 154.12-2084 is amended to read as follows:

As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

(1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;

(2) "Approved costs" means:

(a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;

(c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and

(f) All other costs of a nature comparable to those described in this subsection;

(3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level or to adult persons without a high school diploma or its equivalent;

(6) "Employee" means any person:

(a) Who is currently a permanent full-time employee of the qualified company;

(b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;

(c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and

(d) Who receives a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the qualified company is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] within the ***Department of Workforce Investment in the Education*** Cabinet[~~ for Workforce Development~~].

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;

(7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;

(8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;

(9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, registered limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;

(10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment, including but not limited to technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, are unable to advance on the job, or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and

(11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, as provided in KRS 154.12-2086(1).

Section 102. KRS 154.20-150 is amended to read as follows:

(1) On or before October 1, 1992, and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include, but is not limited to:

(a) The current status of each project under consideration by the authority, the proposed cost of a project, for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and

(b) The current status of each project, along with an updated cost for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.

(2) On or before the first day of each fiscal year, the authority shall submit an overview report to the Legislative Research Commission, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky Economic Development Finance Authority.

(3) In addition to the project status report, all construction, reconstruction, or alteration, financed or facilitated in whole or in part by the authority shall be reported to the ***Office of***[~~Kentucky Department for~~] Employment ***and Training***[~~Services~~], ***within the Department of Workforce Investment in the Education*** Cabinet[~~ for Workforce Development~~], and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This construction activity report shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

Section 103. KRS 154.20-170 is amended to read as follows:

(1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120, and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(10), shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.

(2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] within the ***Department of Workforce Investment in the Education*** Cabinet[~~ for Workforce Development~~].

Section 104. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

   (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

   (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

   (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

   (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

      1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

         a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

         b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

      2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

   (e) A grantor and a fiduciary of any trust;

   (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

   (g) A fiduciary of a trust and a beneficiary of that trust;

   (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

   (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the wage and employment data published by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***~~[Department for Employment Services in the Kentucky Cabinet for Workforce Development]~~ collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved

manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility;

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060;

(17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8); and

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project.

Section 105. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***[~~Department for Employment Services within the Cabinet for Workforce Development~~], determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent calendar year, and shall certify those counties as qualified counties. A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:

(a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the ***Office of Employment and Training within the Department of***

__Workforce Investment in the Education Cabinet__~~[Department for Employment Services in the Cabinet for Workforce Development]~~;

(b) In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and

(c) Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.

If the authority determines that a county which has previously been certified as a qualified county no longer meets the criteria of this subsection, the authority shall decertify that county. The authority shall not provide inducements for any facilities in that county and an approved company shall not be eligible for the inducements offered by KRS 154.22-010 to 154.22-070 unless the tax incentive agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. In addition, the authority shall certify coal-producing counties, not otherwise certified as qualified counties in this subsection, for economic development projects involving the new construction of electric generation facilities. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time. For economic development projects undertaken in a regional industrial park, as defined in KRS 42.4588, or in an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.245, where the physical boundaries of the industrial park lie within two (2) or more counties of which at least one (1) of the counties is a qualified county under this section, an eligible company undertaking an economic development project within the physical boundaries of the industrial park may be approved for the inducements under KRS 154.22-010 to 154.22-080.

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

(c) The requirements of this subsection shall not apply to eligible companies which are nonprofit corporations established under KRS 273.163 to 273.387 and whose employees are handicapped and sheltered workshop workers employed at less than the established minimum wage as authorized by KRS 337.295.

For an eligible company, within a regional industrial park which lies within two (2) or more counties, the calculation of the wage and benefit requirement shall be determined by averaging the average county hourly wage for all counties within the regional industrial park.

(5) No economic development project which will result in the replacement of agribusiness, manufacturing, or electric generation facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates an agribusiness, manufacturing, or electric generation facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or

3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces an agribusiness, manufacturing, or electric generation facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing agribusiness, manufacturing, or electric generation facility located in the same qualified county, and the existing agribusiness, manufacturing, or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the agribusiness, manufacturing, or electric generation facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the agribusiness, manufacturing, or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(6) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval, the authority may by final approval designate an eligible company to be an approved company.

Section 106. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(2) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(3) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(5) "Average hourly wage" means the wage and employment data published by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***[~~Department for Employment Services in the~~

~~Kentucky Cabinet for Workforce Development~~] collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Economic development project" or "project" means:

(a) A new or expanded service or technology activity conducted at a new or expanded site by:

1. An approved company; or

2. An approved company and its affiliate or affiliates; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(8) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(9) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(10) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(11) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(12) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(13) "Local government" means a city, county, or urban-county government;

(14) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(15) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(16) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(17) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(18) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(19) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(20) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;

(21) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(22) (a) "Service or technology" means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;

(23) "Start-up costs" means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040;

(24) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project; and

(25) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations;

or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

Section 107. KRS 154.23-015 is amended to read as follows:

(1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***~~[Department for Employment Services within the Cabinet for Workforce Development]~~:

(a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;

(b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and

(c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.

(2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

(3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.

(4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not

be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the tax incentive agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

(5) If decertification causes a formerly certified contiguous census tract to become noncontiguous, the applicant shall have the discretion to eliminate or maintain the noncontiguous tract. If the applicant eliminates the noncontiguous tract, it may replace the noncontiguous tract with another qualifying census tract, subject to approval of the authority.

(6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.

(7) The authority shall pay its costs of counsel relating to zone certification.

Section 108. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(2) "Agreement" means the service and technology agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(3) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(7) "Average hourly wage" means the wage and employment data published by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***[~~Department for Employment Services in the Kentucky Cabinet for Workforce Development~~] collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic development project" or "project" means a new or expanded service or technology activity conducted at a new or expanded site by:

(a) An approved company; or

(b) An approved company and its affiliate or affiliates;

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(12) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

(14) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(15) "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(16) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(18) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(19) (a) "Service or technology" means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state; and

(20) "Start-up costs" means the acquisition cost associated with the project related to the furnishing and equipping the building for ordinary business functions, including computers, furnishings, office equipment, the relocation of out-of-state equipment, and nonrecurring costs of fixed telecommunication equipment as verified and approved by the authority in accordance with KRS 154.24-130.

Section 109. KRS 154.26-080 is amended to read as follows:

(1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for approval of eligible companies and economic revitalization projects shall include but not be limited to the need for the project; the new capital investment in the project that will result in financial stability for the manufacturing or coal mining and processing facility; and the retention or expansion of the greatest number of employees at the manufacturing or coal mining and processing facility.

(3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100, the eligible company will close its manufacturing or coal mining and processing facility, permanently lay off its employees, and cease operations.

(4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including, but not limited to, financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility; and set out alternatives that are available to the company.

(5) As a part of its application, an eligible company as described in KRS 154.26-010(10)(b) may request an emergency declaration based upon the urgency of the request and its impact on the local or regional economy.

(6) A request for an emergency declaration shall be reviewed by the secretary of the Cabinet for Economic Development, the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~], and the secretary of the Finance and Administration Cabinet and their findings in connection with the emergency declaration shall be delivered to the authority.

(7) If the emergency declaration is granted in accordance with subsection (6) of this section, the eligible company shall not be subject to the requirements contained in subsection (8), subsection (9), or subsection (11) of this section.

(8) In accordance with, and after the adoption of a resolution under subsection (10) of this section, the authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the company will close the facility absent a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.

(9) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the

consultant to make a fair assessment of the company's intentions to close the facility.

(10) After a review of relevant materials and completion of inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily-approved company and authorizing the undertaking of the economic revitalization project.

(11) The authority shall review the report of the consultant and other information which has been made available to it in order to assist the authority in determining whether the company intends to close the facility for valid reasons. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.

(12) After the review of the consultant's report or if an emergency declaration has been issued in accordance with subsection (6) of this section, the authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.

(13) After the public hearing, the authority, by resolution, may declare the jobs then existing at the facility to be lost; may give its final approval to the eligible company's application for a project; and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(14) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 110. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" means the following:

  (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

  (b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

  (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;

  (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

    1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

      a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

      b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or

    2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

  (e) A grantor and a fiduciary of any trust;

  (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

  (g) A fiduciary of a trust and a beneficiary of that trust;

  (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

  (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

  (j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

  (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the wage and employment data published by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***~~[Department for Employment Services in the Kentucky Cabinet for Workforce Development]~~ collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or

its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 111. KRS 154.45-120 is amended to read as follows:

The ***Education*** Cabinet~~[for Workforce Development]~~ shall verify employment information relating to the hiring requirements of qualified businesses to select and maintain employees from the targeted workforce. The ***Education*** Cabinet~~[for Workforce Development]~~ shall fully cooperate with the authority in the development of a system to monitor employment information supplied by qualified businesses.

Section 112. KRS 154.47-015 is amended to read as follows:

(1) The Kentucky Wood Products Competitiveness Corporation is created and established, as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic, performing functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through promoting, enhancing, and developing the Commonwealth's secondary wood products industries by:

(a) Disseminating information;

(b) Providing services;

(c) Developing workforce training measures and standards to support value-added functions with regard to design, processing and manufacture, and marketing of wood products; and

(d) Providing financial support for the deployment of new or improved technology and world-class manufacturing systems to businesses engaged in the production and manufacture of value-added wood products.

(2) The corporation shall be governed by a board of thirteen (13) members, consisting of seven (7) members representing the private sector including four (4) representatives of Kentucky's secondary wood products industry; one (1) member representing the Kentucky Forest Products Council as created and established by KRS 154.47-110; one (1) member representing the ***Education*** Cabinet~~[for Workforce Development]~~; and four (4) members representing the following

universities with one (1) member each representing the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University.

(3) The initial appointments to the board shall be made on or before October 1, 1994, in the following manner:

(a) Seven (7) private sector members shall be made by the Governor from names of persons submitted on or before August 30, 1994, in the following manner:

1. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Wood Manufacturers Network;

2. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Forest Industries Association;

3. One (1) from a list of three (3) nominees submitted in writing by the Mountain Association for Community Economic Development;

4. One (1) from a list of three (3) nominees submitted in writing from grass roots community economic development organizations that have a demonstrated interest in the development of secondary wood products industries; and

5. One (1) from a list of three (3) nominees from private business submitted in writing by the Kentucky Economic Development Partnership.

(b) The Kentucky Forest Products Council, the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~], and the presidents of the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University shall each designate a representative of their respective organizations to be appointed by the Governor to the board.

(c) If any organization or institution as specified in paragraph (a) of this subsection does not nominate persons for appointment as prescribed therein, the Governor may solicit names from any other source, or he may appoint from the list of names submitted by the remaining organizations.

(d) The initial term of office for the seven (7) private sector members shall be staggered so that four (4) members shall serve for a term of three (3) years and three (3) members shall serve for a term of four (4) years. Subsequent appointments shall be made in the same manner as prescribed for original appointments, and shall be for four (4) year terms each.

(4) Except as prescribed in subsection (3)(d) of this section and for the appointee representing the ***Education*** Cabinet[~~ for Workforce Development~~], all appointments shall have a term of four (4) years. The term for the person appointed from the ***Education*** Cabinet[~~ for Workforce Development~~] shall be the same as that of the Governor. Any appointment made by the Governor to fill an unexpired term shall be only for the remaining time of the vacated appointment. Nothing contained in this section shall be construed as prohibiting the reappointment of a member of the board to succeeding terms if, the person to be reappointed has been nominated or designated in the manner as prescribed for original appointments set forth in this section.

Section 113. KRS 156.497 is amended to read as follows:

(1) There is created an Interagency Task Force on Family Resource Centers and Youth Services Centers which shall consist of twenty-one (21) members appointed by the Governor. The twenty-one (21) members appointed shall include one (1) representative from each of the following agencies or groups, except the Department of Education which shall include three (3) representatives and parents which shall have three (3) representatives:

(a) Department of Education;

(b) ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] of the ***Education*** Cabinet[~~ for Workforce Development~~];

(c) Department for Health Services of the Cabinet for Human Resources;

(d) Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources;

(e) Department for Social Services of the Cabinet for Human Resources;

(f) Department for Social Insurance of the Cabinet for Human Resources;

(g) Justice Cabinet;

(h) Governor's Office;

(i) Office of the Secretary, ***Education*** Cabinet[~~ for Workforce Development~~];

(j) Parents;

(k) Teachers;

(l) Local school administrators;

(m) Local school boards;

(n) Local community mental health-mental retardation programs;

(o) Local health departments;

(p) Local community action agencies; and

(q) A family resource and youth services coordinator.

(2) The task force shall be appointed and begin to meet immediately upon July 13, 1990, to formulate a five (5) year implementation plan establishing family resource and youth services centers designed to meet the needs of children and their families. By July 1, 1995, the implementation plan shall be revised to include two (2) additional years, 1996 and 1997. The centers shall provide services which will enhance students' abilities to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services. The secretary of the Cabinet for Human Resources shall call the first meeting, at which time the task force by majority vote shall elect a task force chair to serve a one (1) year term. A new chair shall be elected annually thereafter, and the chair may succeed himself. The Cabinet for Human Resources shall provide adequate staff to assist in the development and implementation of the task force's plan.

(3) The plan developed by the task force shall include an effort to implement a network of family resource centers across the Commonwealth. The centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and shall include, but not be limited to, the following components for each site:

(a) Full-time preschool child care for children two (2) and three (3) years of age;

(b) After school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;

(c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;

(d) Parent and child education (PACE) as described in KRS 158.360 or similar program;

(e) Support and training for child day care providers; and

(f) Health services or referral to health services, or both.

(4) The plan developed by the task force shall include a schedule to implement a network of youth services centers across the Commonwealth. The centers shall be located in or near each school, except elementary schools, serving youth over twelve (12) years of age and in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and include, but not be limited to, the following components for each site:

(a) Referrals to health and social services;

(b) Employment counseling, training, and placement;

(c) Summer and part-time job development;

(d) Drug and alcohol abuse counseling; and

(e) Family crisis and mental health counseling.

(5) The task force shall complete its implementation plan for the program prior to January 1, 1991, and local school districts shall develop initial plans for their family resource centers and youth services centers by June 30, 1991. By June 30, 1992, family resource centers and youth services centers shall be established in or adjacent to at least one-fourth (1/4) of the eligible schools, with expansion by one-fourth (1/4) by June 30 of each year thereafter or until the centers have been established in or adjacent to all eligible schools.

(6) A grant program is established to provide financial assistance to eligible school districts establishing family resource centers and youth services centers. The Cabinet for Human Resources shall award the grants pursuant to KRS 156.4977. A school district shall not operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for purposes of seeking an abortion.

(7) Funding provided to the Cabinet for Families and Children for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.

(8) The task force shall continue to monitor the family resource centers and the youth services centers, review grant applications, and otherwise monitor the implementation of the plan until December 31, 1997, at which time the task force shall cease to exist. During its existence, the task force shall report at least annually to the secretary of the Cabinet for Human Resources, the ***Kentucky Board of***[~~State Board for Elementary and Secondary~~] Education, the Governor, and the Legislative Research Commission.

(9) Members of the task force may be reimbursed for actual expenses for attending meetings and for other actual and necessary expenses incurred in the performance of their duties authorized by the task force. The expenses shall be paid out of the appropriation for the task force.

Section 114. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be

composed of the following individuals, serving in an ex officio capacity:

(a) The chairman of the Council on Postsecondary Education;

(b) The president of the Council on Postsecondary Education;

(c) The chairman of the Kentucky Board of Education;

(d) The commissioner of the Department of Education;

(e) The ***commissioner of the Department of Workforce Investment***[~~secretary of the Cabinet for Workforce Development~~];

(f) The chairman of the Board for the Kentucky Higher Education Assistance Authority; and

(g) The president of the Kentucky Community and Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 115. KRS 156.749 is amended to read as follows:

(1) Administrative expenses of the commission will be borne by the respective participating agencies, as a part of each agency's normal budget for basic operations. In each year, the agency represented by the chairman shall provide any necessary staff support required, including provision of a secretary, whose duties shall include the taking of minutes and distribution thereof. The agency represented by the chairman shall make arrangements for meeting facilities.

(2) All meetings will be held in Frankfort, Kentucky, upon the call of the chairman or a majority vote of the membership. In the initial year, the ***commissioner of the Department for Workforce Investment***[~~secretary of the Cabinet for Workforce Development~~] shall serve as chairperson.

Section 116. KRS 157.069 is amended to read as follows:

(1) As used in this section:

(a) "Secondary area technology center" or "secondary area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency. An area center may be either state or locally operated; and

(b) "Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.

(2) The Kentucky Department of Education shall distribute all general funds designated for locally operated secondary area centers and vocational departments, which have been receiving state supplemental funds prior to June 21, 2001, by a weighted formula, specified in an administrative regulation promulgated by the Kentucky Board of Education. The formula shall take into account the differences in cost of operating specific programs. The commissioners of the Kentucky Department of Education and the Department for ***Workforce Investment***[~~Technical Education~~] shall formally agree upon programs to be assigned to categories based on the descriptions found in paragraphs (a) to (c) of this subsection. Programs in Categories III and II shall be eligible for funding.

(a) Category III--High-cost technical programs: Programs in which students develop highly technical skills in specific occupational areas and that require high-cost equipment, materials, and facilities. This category may include selected industrial technology Level III programs as defined by the ***Office of Career and***[~~Department for~~] Technical Education and programs in other occupational areas as deemed appropriate by both ***agencies***[~~departments~~];

(b) Category II--Technical skill programs: Programs in which students develop technical skills focused in occupational areas and that require technical equipment but high-cost equipment, facilities, or materials are not necessary to operate the programs. This category may include selected industrial technology Level III programs as defined by the ***Office of Career and***[~~Department for~~] Technical Education and programs in other occupational areas as deemed appropriate by both ***agencies***[~~departments~~]; and

(c) Category I--Orientation and career exploration programs: Programs that provide orientation and exploration of broad-based industries by giving students knowledge and experience regarding careers within these industries and develop some exploratory or hands-on skills used in the industry.

Notwithstanding paragraphs (a) and (b) of subsection (1) of this section, the Department of Education shall approve the combining of eligible secondary vocational programs into a single vocational department for purposes of funding for a school district that has been receiving state supplemental funds and has distributed its vocational programs, previously located in area centers, among magnet career academies.

(3) For calculation purposes and after categorizing the programs as described in subsection (2) of this section, a weight shall be applied as a percentage of the base guarantee per pupil in average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky Program, which shall be applied to full-time equivalent students in Categories II and III. Category I programs shall receive no weight. The full-time equivalent students shall be calculated on

the basis of the total program enrollment divided by the length of the class period divided by six (6).

Section 117. KRS 157.910 is amended to read as follows:

(1) There is hereby established the Kentucky Environmental Education Council, referred to hereafter as the council, to provide leadership and planning for environmental education for the population of Kentucky through the cooperative efforts of educators, government agencies, businesses, and public interests. The council shall be an independent agency and be attached to the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(2) The nine (9) member council shall be appointed to four (4) year terms by the Governor and be composed of a balance of education, government, industry, and environmental interests. Members appointed by the Governor shall have the authority to carry out the provisions of KRS 157.900 to 157.915.

(3) The council shall hire an executive director, environmental education specialists, and clerical staff to carry out the functions and duties of the council.

(4) The council members shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

(5) The council membership shall elect a chairperson to serve a one (1) year term.

Section 118. KRS 157.921 is amended to read as follows:

(1) The Kentucky Geographic Education Board is established to provide leadership and planning for geography education for the population of Kentucky through the efforts of elementary, secondary, and postsecondary educators, government agencies, and public interests. The board shall be an independent agency and be attached to the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(2) The twelve (12) member board shall be appointed to two (2) year terms, initially appointed by the Governor, and composed of the following members:

  (a) Three (3) representatives from postsecondary institutions;

  (b) One (1) representative from the Council for Social Sciences;

  (c) Six (6) representatives from elementary and secondary schools;

  (d) One (1) representative of the Department of Education; and

  (e) One (1) representative of the Council on Postsecondary Education.

(3) The board shall select from its membership a chair and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies that occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

(4) The board members shall receive no compensation but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

Section 119. KRS 158.360 is amended to read as follows:

(1) The ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~ shall provide technical assistance to providers to develop family literacy services. The technical assistance shall be evaluated on a regular basis by contracted evaluators outside the department.

(2) The programs shall:

  (a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;

  (b) Provide the children with developmentally appropriate educational activities;

  (c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

  (d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of under education and poverty; and

  (e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services.

Section 120. KRS 158.442 is amended to read as follows:

(1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety programs, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.

(2) To fulfill its mission, the Center for School Safety shall:

  (a) Establish a clearinghouse for information and materials concerning school violence prevention;

  (b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;

(c) Analyze the data collected in compliance with KRS 158.444;

(d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;

(e) Administer a school safety grant program for local districts as directed by the General Assembly;

(f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;

(g) Prepare and disseminate information regarding best practices in creating safe and effective schools;

(h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and

(i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.

(3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:

(a) The commissioner or a designee of the Department of Education;

(b) The commissioner or a designee of the Department of Juvenile Justice;

(c) The commissioner or a designee of the Department for Mental Health and Mental Retardation Services;

(d) The commissioner or a designee of the Department for Community Based Services;

(e) The secretary or a designee of the Education[~~, Arts, and Humanities~~] Cabinet;

(f) A juvenile court judge;

(g) A local school district board of education member;

(h) A local school administrator;

(i) A school council parent representative;

(j) A teacher;

(k) A classified school employee; and

(l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

Section 121. KRS 158.443 is amended to read as follows:

(1) Each nonstate-government employee member of the board of directors for the Center for School Safety shall serve a term of two (2) years and may be reappointed, but a member shall not serve more than two (2) consecutive terms.

(2) The members who are nonstate-government employees shall be reimbursed for travel, meals, and lodging and expenses relating to official duties of the board from funds appropriated for this purpose.

(3) The board of directors shall meet a minimum of four (4) times per year. The board of directors shall be attached to the office of the secretary of the Education[~~, Arts, and Humanities~~] Cabinet for administrative purposes.

(4) The board of directors shall annually elect a chair and vice chair from the membership. The board may form committees as needed.

(5) Using a request-for-proposal process, the board of directors shall select a public university to administer the Center for School Safety for a period of not less than four (4) years unless funds for the center are not appropriated or the board determines that the university is negligent in carrying out its duties as specified in the request for proposal and contract. The initial request for proposals shall be issued not later than September 15, 1998. The board shall select a university no later than January 1, 1999. The university shall be the fiscal agent for the center and:

(a) Receive funds based on the approved budget by the board of directors and the General Assembly's appropriation for the center. The center shall operate within the fiscal policies of the university and in compliance with policies established by the board of directors per the request for proposal and contract; and

(b) Employ the staff of the center who shall have the retirement and employee benefits granted other similar university employees.

(6) The board of directors shall annually approve:

(a) A work plan for the center;

(b) A budget for the center;

(c) Operating policies as needed; and

(d) Recommendations for grants, beginning in the 1999-2000 school year and subsequent years, to local school districts and schools to assist in the development of programs and individualized approaches to work with violent, disruptive, or academically at-risk students, and consistent with provisions of KRS 158.445.

(7) The board of directors shall prepare a biennial budget request to support the Center for School Safety and to provide program funds for local school district grants.

(8) The board shall develop model interagency agreements between local school districts and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services and sharing of costs for services to students who are at risk of school failure, are at risk of participation in juvenile crime, or have been expelled from the school district.

Section 122. KRS 158.794 is amended to read as follows:

(1) The Early Reading Incentive Grant Steering Committee is hereby created for the purpose of advising the Kentucky Board of Education and the Department of Education concerning the implementation and administration of the early reading incentive grant fund created by KRS 158.792. The committee shall be composed of fifteen (15) members including the commissioner of education or the commissioner's designee, the president of the Council on Postsecondary Education or the president's designee, the *vice president of the Kentucky Adult Education Program*[~~commissioner of the Department for Adult Education and Literacy~~] or the *vice president's*[~~commissioner's~~] designee, and the following members, to be appointed by the Governor:

(a) Two (2) primary program teachers with a specialty or background in reading and literacy;

(b) Eight (8) university professors with a specialty or background in reading and literacy representing each of the public universities; and

(c) Two (2) individuals from the state at large with background and interest in reading and literacy.

(2) Each member of the committee, other than members who serve by virtue of their position, shall serve for a term of three (3) years or until a successor is appointed and qualified, except that upon initial appointment, four (4) members shall serve a one (1) year term, four (4) members shall serve a two (2) year term, and four (4) members shall serve a three (3) year term.

(3) A majority of the full authorized membership shall constitute a quorum.

(4) The committee shall elect, by majority vote, a chair, who shall be the presiding officer of the committee, preside at all meetings, and coordinate the functions and activities of the committee. The chair shall be elected or reelected each calendar year.

(5) The committee shall be attached to the Department of Education for administrative purposes.

(6) The committee shall:

(a) Identify needs in schools throughout the state regarding reading and literacy programs;

(b) Develop criteria for the solicitation, review, and approval of grant applications provided under KRS 158.792;

(c) Develop a process for monitoring grants that are awarded; and

(d) Recommend approval of grant applications based upon criteria established by the committee.

Section 123. KRS 158.814 is amended to read as follows:

(1) In order to ensure that high-quality, relevant secondary career and technical programs are available to students in all school districts that enable them to gain the academic and technical skills to meet high school graduation requirements and for successful transition to postsecondary education, work, or the military and to support present-day and future needs of Kentucky employers, the Kentucky Department of Education and the *Office for Career and*[~~Department for~~] Technical Education shall jointly implement a comprehensive plan between July 1, 2001, and January 1, 2004, to:

(a) Review and revise as needed the equipment and facilities standards for each career and technical education program identified and described in the career and technical supplement to the Kentucky program of studies and published by the Kentucky Department of Education; and

(b) Establish a needs assessment process tied to specific criteria for assisting all providers of programs in determining if the current programs offered in their respective facilities are appropriate for the students in the school districts served as well as for determining if new programs are needed.

(2) Representatives from local school districts, the Kentucky Community and Technical College System, business and industry, colleges, universities, and other appropriate agencies shall be consulted in carrying out the requirements of this section.

Section 124. KRS 158.816 is amended to read as follows:

(1) The Kentucky Department of Education and the *Office of Career and*[~~Department for~~] Technical Education, with involvement of representatives from the local school districts and teacher preparation institutions, shall jointly complete an annual statewide analysis and report of academic achievement of technical education students who have completed or are

enrolled in a sequence of a technical program of at least three (3) high school credits.

(2) The analysis shall include the previous year's results from the Commonwealth Accountability Testing System. The data shall be disaggregated for all high school students by career cluster areas of agriculture, business and marketing, human services, health services, transportation, construction, communication, and manufacturing and by special populations. Where available, disaggregated data from other national assessments shall also be used.

(3) (a) The Kentucky Department of Education, with assistance from the ***Office of Career and***[~~Department for~~] Technical Education, shall coordinate the development of a statewide technical assistance plan to aid providers of programs in identifying areas for improvement for those schools that do not meet their school performance goal and for those schools where technical students as a group do not score equal to or better than the school average in each of the academic areas. The plan shall address methodologies for further analysis at each school including, but not limited to:

1. The academic course-taking patterns of the technical students;
2. The rigor and intensity of the technical programs and expectations for student performance in reading, math, science, and writing and other academic skills as well as in technical skill development;
3. The level of communication and collaboration between teachers in technical programs and academic programs, planning, and opportunity for analyzing student achievement, particularly between faculty in the comprehensive high schools with the faculty in state-operated or locally operated secondary area centers and vocational departments;
4. The faculties' understanding of Kentucky's program of studies, academic expectations, and core content for assessment;
5. The knowledge and understanding of academic teachers and technical teachers in integrating mutually supportive curricula content;
6. The level of curricula alignment and articulation in grades eight (8) to sixteen (16);
7. The availability of extra help for students in meeting higher standards;
8. The availability and adequacy of school career and guidance counseling;
9. The availability and adequacy of work-based learning;
10. The availability and adequacy of distance learning and educational technology;
11. The adequacy of involvement of business and industry in curricula, work-based learning, and program development; and
12. The adequacy of teachers' preparation to prepare them for teaching both academic and technical skills to all students that are necessary for successful transition to postsecondary education, work, or the military.

(b) The ***Department of Education and the Office of Career and Technical Education***[~~departments~~], in cooperation with teacher preparation programs, postsecondary education institutions, and other appropriate partners, shall ensure that academic core content is imbedded or integrated within the performance requirements for students.

(c) The ***Department of Education and the Office of Career and Technical Education***[~~departments~~], in cooperation with the Kentucky Community and Technical College System, shall encourage postsecondary education and business and industry to provide professional development and training opportunities to engage technical faculty in continuous improvement activities to enhance their instructional skills.

(d) The ***Department of Education and the Office of Career and Technical Education***[~~departments~~] shall continue efforts with business and industry to develop occupation skill standards and assessments. All efforts shall be made with the involvement of business, industry, and labor. Skill standards and assessments, where available, shall be used as the focus of the curricula.

(4) The ***Department of Education and the Office of Career and Technical Education***[~~departments~~] shall consult with the Education Professional Standards Board in carrying out the requirements of this section as they relate to teacher preparation.

Section 125. KRS 158.796 is amended to read as follows:

The Governor's Scholars Program is established in the Office of the Secretary of the Education[~~, Arts, and Humanities~~] Cabinet and shall be headed by an executive director appointed by the secretary of the Education[~~, Arts, and Humanities~~] Cabinet with approval by the Governor. This program shall be responsible for implementing an enrichment program for academically-gifted students.

Section 126. KRS 161.011 is amended to read as follows:

(1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and

(b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or high school certificate of completion or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations promulgated by the ***vice president of the Kentucky Adult Education Program, Council on Postsecondary Education***[~~commissioner of the Department for Adult Education and Literacy~~].

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.

(5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:

(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.

(b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.

(6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.

(7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.

(8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.

(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.

(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.

(9) Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and

(c) Discipline guidelines and procedures that satisfy due process requirements.

(10) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(11) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Section 127. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, the Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;

(h) The ***Office of Career and***[~~Department for~~] Technical Education, except that the ***executive director***[~~commissioner~~] shall not be a member;

(i) The ***Office***[~~Department~~] of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the ***former*** Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System***, effective July 1, 1998,*** and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the ***former*** Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the ***former*** Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; and

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the ***former*** Cabinet for Workforce Development and the commissioners of the ***former*** Department for Adult Education and Literacy and the ***former***

Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.6455 or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky

in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

SECTION 128. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Adult Education Program is created to carry out the statewide adult education mission. The program shall implement a twenty (20) year state strategy to reduce the number of adults who are at the lowest levels of literacy and most in need of adult education and literacy services. The program shall have responsibility for all functions related to adult education and literacy.

(2) The Kentucky Adult Education Program is part of the Council on Postsecondary Education and shall be organized in a manner as directed by the president of the Council on Postsecondary Education. The program shall be headed by a vice president appointed by the president of the Council on Postsecondary Education.

(3) The Kentucky Adult Education Program, Council on Postsecondary Education, shall be the agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations.

Section 129. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;

(3) "Benchmarks" means objective measures developed where applicable or practical by the Council on Postsecondary Education to judge the performance of the postsecondary education system and progress toward the goals as stated in KRS 164.003(2);

(4) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Community and Technical College System;

(5) "Board of regents" means the governing board of each regional university and the Kentucky Community and Technical College System;

(6) "Committee" means the Strategic Committee on Postsecondary Education created in KRS 164.004;

(7) "Council" means the Council on Postsecondary Education created in KRS 164.011;

(8) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(9) "Goals" means the six (6) goals specified in KRS 164.003(2);

(10) "Independent institution" means a nonpublic postsecondary education institution in Kentucky whose instruction is not solely sectarian in nature, is accredited by a regional accrediting association recognized by the United States Department of Education, and is licensed by the Council on Postsecondary Education;

(11) "Institution" means a university, college, community college, health technology center, vocational-technical school,

technical institute, technical college, technology center, or the Kentucky Community and Technical College System;

(12) "Kentucky Community and Technical College System" means the system composed of two (2) branches, which are:

(a) The Technical Institutions' Branch. This branch includes the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the ***former*** Cabinet for Workforce Development; and

(b) The University of Kentucky Community College System, with the exception of the Lexington Community College.

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

(13) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(14) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(15) "Nonteaching personnel" means any employee who is a full-time staff member, excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(16) "Postsecondary education system" means the following public institutions: University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;

(17) "P-16 council" or "council of partners" means a local or state council that is composed of educators from public and private preschools, elementary, secondary, and postsecondary education institutions, local board of education members, and may include community and business representatives that have voluntarily organized themselves for the purpose of improving the alignment and quality of the education continuum from preschool through postsecondary education as well as student achievement at all levels;

(18) "Public" means operated with state support;

(19) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law;

(20) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(21) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(22) "Strategic agenda" means the state strategic postsecondary education agenda described in KRS 164.0203; and

(23) "Technical institution" means an educational institution that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

Section 130. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~]. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;

(14) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

(15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's mission and the strategic agenda;

(b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;

(23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(25) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include but not be limited to the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;

(26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(27) Select and appoint a president of the council under KRS 164.013;

(28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;

(32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;

(34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~], under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:

(a) Promote coordination of programs and responsibilities linked to the issue of adult education with the ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~ and with other agencies and institutions;

(b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;

(c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;

(d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and

(e) Administer the adult education and literacy initiative fund created under KRS 164.041; and

(35) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 131. KRS 164.0203 is amended to read as follows:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term objectives in furtherance of the long-term goals established in KRS 164.003(2).

(2) (a) The purpose of the strategic agenda is to further the public purposes under KRS 164.003 by creating high-quality, relevant, postsecondary education and adult education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education and adult education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions and providers that serve them; and

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) The council shall develop a strategic implementation plan, which may be periodically revised, to achieve the strategic agenda. The strategic agenda shall serve as a guide for institutional plans and missions.

(3) The framework for the strategic implementation plan of the strategic agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation plan for the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of Kentucky's employers.

(5) The council shall develop benchmarks using criteria that shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in KRS 164.095.

(6) The council shall review the goals established by KRS 164.003(2) at least every four (4) years and shall review its implementation plan at least every two (2) years.

(7) In developing the strategic agenda, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda and strategic implementation plan, the council shall distribute copies to each local school district.

(8) The strategic agenda shall include a long-term strategy, developed in partnership with the ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~, for raising the knowledge and skills of Kentucky's adult population, and ensuring lifelong learning opportunities for all Kentucky adults, drawing on the resources of all state

government cabinets and agencies, business and civic leadership, and voluntary organizations.

Section 132. KRS 164.0207 is amended to read as follows:

(1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available training for educators in reliable, replicable research-based reading models, and to promote literacy development. The center shall be responsible for:

(a) Developing and implementing a clearinghouse for information about models addressing reading and literacy from the elementary grades through adult education;

(b) Collaborating with public and private institutions of postsecondary education and adult education providers to provide for teachers and administrators quality preservice and professional development in early reading instruction, including phonics instruction;

(c) Assisting districts located in areas with low levels of reading skills to assess and address identified literacy needs;

(d) Providing professional development and coaching for classroom teachers, including adult education teachers, implementing selected reliable, replicable research-based reading models;

(e) Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;

(f) Establishing a demonstration and training site for early literacy located at each of the public universities; and

(g) Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under KRS 164.041.

(2) The center shall submit an annual report on its activities to the Governor and the Legislative Research Commission no later than September 1 of each year.

(3) With the advice of the ***Kentucky Adult Education Program***~~[Department of Adult Education and Literacy in the Cabinet for Workforce Development]~~ and the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location and monitor the progress of the center.

Section 133. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education, in consultation with the ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~ and the Collaborative Center for Literacy Development: Early Childhood through Adulthood, shall assess the need for technical assistance, training, and other support to assist in the development of adult education and workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The council shall promote the involvement of universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies.

Section 134. KRS 164.041 is amended to read as follows:

(1) There is created in the Council on Postsecondary Education, a special fund to be known as the adult education and literacy initiative fund, which shall consist of moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public and private, and interest accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be carried forward to be used only for the purposes specified in this section. Moneys accumulated in this fund on July 14, 2000, shall remain in the fund and be transferred to the Council on Postsecondary Education to be used for purposes stated in this section.

(2) The purpose of the adult education and literacy initiative fund shall be to support strategies for adult education, to provide statewide initiatives for excellence, and to provide funds for research and development activities.

(3) The council, in collaboration with the ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~, shall establish the guidelines for the use, distribution, and administration of the fund, financial incentives, technical assistance, and other support for strategic planning; and guidelines for fiscal agents to assess county and area needs and to develop strategies to meet those needs.

(4) The fund shall include the following strategies:

(a) Statewide initiatives. Funds shall be used to encourage collaboration with other organizations, stimulate development of models of adult education programs that may be replicated elsewhere in the state, provide incentives for adults, employers, and providers to encourage adults to establish and accomplish learning contracts, provide incentives to encourage participation in adult education, assist providers of county and area programs in areas of highest need, and for other initiatives of regional or statewide significance as determined by the council. The Collaborative Center for Literacy Development: Early Childhood through Adulthood created under KRS 164.0207 shall evaluate the reading and literacy components of model programs funded under this paragraph.

(b) Research and demonstration. The funds shall be used to develop:

1. Standards for the preparation, professional development, and support for adult educators with the advice of

the ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~ and as compatible with funds provided under Title II of the Federal Workforce Investment Act;

2. A statewide competency-based certification for transferable skills in the workplace; and

3. A statewide public information and marketing campaign.

Section 135. KRS 164.477 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Alternative format" means any medium or format for the presentation of instructional materials other than standard print needed by a student with a disability for a reading accommodation, including but not limited to braille, large print texts, audio recordings, digital texts, and digital talking books;

(b) "Instructional material" means a textbook or other material published primarily for use by students in a course of study in which a student with a disability is enrolled that is required or essential to a student's success, as determined by the course instructor. "Instructional material" includes nontextual mathematics and science material to the extent that software is commercially available to permit the conversion of the electronic file of the material into a format that is compatible with assistive technologies such as speech synthesis software or braille translation software commonly used by students with disabilities;

(c) "Nonprinted instructional material" means instructional material in a format other than print, including instructional material that requires the availability of electronic equipment in order to be used as a learning resource, including but not limited to software programs, videodiscs, videotapes, and audio tapes;

(d) "Printed instructional material" means instructional material in book or other printed form;

(e) "Publisher" means an individual, firm, partnership, corporation, or other entity that publishes or manufactures instructional material used by students attending a public or independent postsecondary education institution in Kentucky;

(f) "State Repository for Alternative Format Instructional Materials" or "repository" means a consortium established or otherwise designated by the Council on Postsecondary Education under subsection (8) of this section to serve as a state repository for electronic files or alternative format instructional materials obtained from publishers, created by institutions, or received through other means;

(g) "Structural integrity" means the inclusion of all of the information provided in printed instructional material, including but not limited to the text of the material sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, and glossaries, but need not include nontextual elements such as pictures, illustrations, graphs, or charts; and

(h) "Working day" means a day that is not Saturday, Sunday, or a national holiday.

(2) The purpose of this section is to ensure, to the maximum extent possible, that all postsecondary students with a disability in Kentucky requiring reading accommodations, in accordance with Section 504 of the Rehabilitation Act, 29 U.S.C. sec. 794, or the Americans with Disabilities Act, 42 U.S.C. secs. 12101 et seq., including but not limited to students who are blind, are visually impaired, or have a specific learning disability or other disability affecting reading, shall have access to instructional materials in alternative formats that are appropriate to their disability and educational needs.

(3) A publisher shall, upon fulfillment of the requirements of subsections (6) and (7) of this section, provide to a postsecondary education institution or to the State Repository for Alternative Format Instructional Materials, at no cost:

(a) Printed instructional material in an electronic format; and

(b) Nonprinted instructional material in an electronic format, when the technology is available to maintain the material's structural integrity.

(4) Instructional material provided by a publisher in electronic format shall:

(a) Maintain the structural integrity of the original instructional material, except as provided for in paragraph (b) subsection (3) of this section;

(b) Be compatible with commonly used braille translation and speech synthesis software;

(c) Include corrections and revisions as may be necessary; and

(d) Be in a format that is mutually agreed upon by the publisher and the requesting institution or the State Repository for Alternative Format Instructional Materials. If good-faith efforts fail to produce an agreement as to an electronic format that will preserve the structural integrity of the instructional material, the publisher shall provide the instructional material in XML (Extensible Markup Language), utilizing an appropriate document-type definition suitable for the creation of alternative format materials, and shall preserve as much of the structural integrity of the original instructional material as possible.

(5) The publisher shall transmit or otherwise send an electronic format version of requested instructional material within fifteen (15) working days of receipt of an appropriately completed request. Should this timetable present an undue burden for a publisher, the publisher shall submit within the fifteen (15) working day period a statement to the requesting entity certifying the expected date for transmission or delivery of the file.

(6) (a) To receive an electronic format version of instructional material, a written request shall be submitted to the publisher that certifies:

1. The instructional material has been purchased for use by a student with a disability by the student or the institution the student attends or is registered to attend;

2. The student has a disability that prevents the student from using the standard instructional material; and

3. The instructional material is for use by the student in connection with a course in which he or she is registered or enrolled.

(b) A publisher may also require a statement signed by the student or, if the student is a minor, the student's parent or legal guardian, agreeing that the student will:

1. Use the electronic copy of the instructional material solely for his or her own educational purposes; and

2. Not copy or distribute the instructional material for use by others.

(7) The request for an electronic format version of instructional material shall be prepared and signed by:

(a) The coordinator of services for students with a disability at the institution;

(b) A representative of the ***Office***~~[Department]~~ for the Blind;

(c) A representative of the ***Office***~~[Department]~~ of Vocational Rehabilitation; or

(d) A representative of the State Repository for Alternative Format Instructional Materials.

(8) The Council on Postsecondary Education may, to the extent funds are available, establish or otherwise designate a consortium to be called the State Repository for Alternative Format Instructional Materials to serve as a state repository for electronic files and alternative format materials for the purpose of facilitating the timely access of appropriate alternative instructional materials by postsecondary students with a disability.

(9) The Council on Postsecondary Education may promulgate administrative regulations governing the implementation and administration of this section.

(10) The council shall work with representatives of each postsecondary institution to develop policies and procedures designed to ensure to the maximum extent possible that students with disabilities have access to instructional materials in appropriate alternative formats within the first week of class.

(11) The council, in consultation with appropriate entities, including but not limited to the ***Office***~~[Department]~~ for the Blind, the Kentucky Assistive Technology Service Network, Recording for the Blind and Dyslexic, and the Kentucky Association on Higher Education and Disability, shall include within its annual status report on postsecondary education in Kentucky a continuing assessment of the need for statewide technical assistance, training, and other supports designed to increase the availability and effective use of alternative format instructional materials.

(12) The State Repository for Alternative Format Instructional Materials or the council may receive electronic files and alternative format materials from:

(a) Publishers;

(b) Postsecondary education institutions that have created alternative materials for use by a student with a disability;

(c) The Kentucky Department of Education, receiving electronic files from publishers under the requirements of KRS 156.027; or

(d) Other sources.

(13) The repository or the council shall, upon receipt of documents as set forth in subsection (6) of this section, provide at no cost copies of electronic files and alternative format materials to:

(a) Postsecondary education institutions in Kentucky; and

(b) The Kentucky Department of Education, to assist in the implementation of the requirements of KRS 156.027.

(14) The repository shall provide to a publisher, upon request:

(a) A summary of all electronic or alternative format versions of instructional material from that publisher provided to students, postsecondary education institutions, and the Kentucky Department of Education from its holdings; and

(b) Copies of requests and related certification documents received for instructional materials from that publisher.

(15) The repository or the council may submit requests for electronic files to publishers on behalf of institutions.

(16) (a) A postsecondary education institution or an educational instructor, assistant, or tutor may assist a student with a disability by using the electronic format version of instructional material as provided by this section solely to transcribe or arrange for the conversion of the instructional material into an alternative format, or to otherwise assist the student.

(b) If an alternative format version of instructional material is created, an institution may, for the purpose of providing the version to other students with disabilities, share that version with:

1. The repository;

2. A Kentucky postsecondary education institution serving a student with a disability; and

3. An authorized entity as defined under 17 U.S.C. sec. 121 that commonly provides alternative format materials for use by students in Kentucky institutions.

(17) The disk or file of an electronic format version of instructional material used directly by a student shall be copy-protected, or reasonable precautions shall be taken by the institution to ensure that the student does not copy or distribute the electronic format version in violation of the Copyright Revisions Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.

(18) Nothing in this section shall be deemed to authorize any use of instructional materials that would constitute an infringement of copyright under the Copyright Revision Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.

(19) Nothing in this section shall absolve covered entities from the obligation to provide equivalent access to information technology and software as set forth in KRS 61.982.

(20) A publisher shall be considered a place of public accommodation for the purposes of KRS 344.130. Failure to comply with the requirements of this section shall be an unlawful practice of discrimination on the basis of disability for the purposes of KRS 344.120.

Section 136. KRS 164.478 is amended to read as follows:

(1) It is the intent of the General Assembly to increase the educational level of deaf and hard of hearing persons by assuring them an equal opportunity to obtain an education in the public postsecondary institutions.

(2) The public postsecondary institutions shall make their programs accessible to deaf and hard of hearing students by providing support services necessary for such students to fully participate in the programs. The support services shall include, but not be limited to, interpreters and notetakers in the classroom and equal access to all support services available to those who are not deaf or hard of hearing. Appropriate assistive listening devices and alerting devices shall be available in dormitories housing deaf or hard of hearing students.

(3) (a) The General Assembly shall appropriate funds to the ***Office***~~[Department]~~ of Vocational Rehabilitation excluding costs of capital equipment or modifications for installation of assistive listening or alerting devices to cover the costs of support services at the institutions for students who are deaf or hard of hearing.

(b) The ***Office***~~[Department]~~ of Vocational Rehabilitation shall administer funding of support services at institutions for students who are deaf or hard of hearing contingent on General Assembly funding. The postsecondary institutions and the ***Office***~~[Department]~~ of Vocational Rehabilitation shall cooperate to assure that funds are used to effectively provide support services to students who are deaf and hard of hearing.

(c) The funds shall be distributed to institutions based upon actual costs or established fees for service of providing support services to individual students.

Section 137. KRS 164.5805 is amended to read as follows:

(1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the ***former*** Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the ***former*** Cabinet for Workforce Development to the Kentucky Community and Technical College System.

(a) The staff positions in the ***former*** Department for Technical Education and the ***former*** Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.

(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the ***former*** Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or

classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;

4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under KRS 161.220 or the Kentucky Employees Retirement System under KRS 61.525;

5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and

6. Employees shall be provided life insurance coverage and optional insurance or investment programs.

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the ***former*** Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board.

Section 138. KRS 309.308 is amended to read as follows:

(1) There is hereby created a committee to be known as the "Kentucky Board of Interpreters for the Deaf and Hard of Hearing Policy Committee."

(2) The committee shall consist of eleven (11) members as follows:

(a) The president or a designee of:

1. Kentucky Association of the Deaf; and

2. Kentucky Registry of Interpreters for the Deaf;

(b) A representative from:

1. Kentucky Commission on the Deaf and Hard of Hearing (KCDHH);

2. Eastern Kentucky University Interpreter Training Program;

3. Kentucky Department of Education;

4. Kentucky ***Office***[~~Department~~] of Vocational Rehabilitation;

5. Kentucky School for the Deaf;

6. Cabinet for Families and Children; and

7. Cabinet for Health Services; and

(c) Two members-at-large, who are consumers, appointed by the board.

(3) The members of the committee shall receive no compensation for their services on the committee. The member from the Kentucky Association of the Deaf, the member from the Kentucky Registry of Interpreters for the Deaf, and the members-at-large shall be reimbursed for actual and necessary expenses incurred in the performance of their committee duties.

Section 139. KRS 314.452 is amended to read as follows:

(1) As used in KRS 314.450 to 314.464, "board" means the board of the Nursing Workforce Foundation.

(2) The Nursing Workforce Foundation is created and shall be governed by a board comprised of members who are residents of Kentucky appointed by the Governor.

(3) The foundation shall be governed by a board, the membership of which shall consist of the following:

(a) President, or a designee, of the Kentucky Community and Technical College System;

(b) President, or a designee, of the Association of Independent Kentucky Colleges and Universities;

(c) President, or a designee, of the Council on Postsecondary Education;

(d) Secretary, or a designee, of the ***Education***[~~Kentucky~~] Cabinet[~~ for Workforce Development~~];

(e) Executive Director, or a designee, of the Kentucky Board of Nursing;

(f) President, or a designee, of the Kentucky Nurses Association;

- (g) President, or a designee, of the Kentucky Coalition of Nurse Practitioners and Nurse Midwives;
- (h) President, or a designee, of the Kentucky Council of Associate Degree Nursing Programs;
- (i) Chair, or a designee, of the Kentucky Association of Baccalaureate and Higher Degree Nursing Programs; and
- (j) Two (2) members from a list of three (3) individuals recommended by the Kentucky Hospital Association, with one (1) representing a rural hospital and one (1) representing an urban hospital.

(4) The board shall elect a chairman from its members. The board shall meet at least four (4) times a year and at the call of the chairman or a majority of the board members. A majority of the board membership shall constitute a quorum.

(5) Each hospital representative appointment shall be for a term of four (4) years. A vacancy on the board shall be filled by the Governor as provided under this section.

(6) Members of the board shall be entitled to reimbursement for expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement.

(7) The board shall employ or contract with a qualified person or nonprofit organization to serve as executive director to the board and shall fix the compensation and define the duties. The executive director shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may employ or contract with other persons as may be necessary to carry on the work of the board.

(8) The board shall be a nonprofit, quasi-governmental corporation subject to the Kentucky Open Records Law and Kentucky Open Meetings Law. The board shall have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of KRS 314.450 to 314.464.

(9) The provisions of KRS 314.450 to 314.464 shall be funded by any grants, gifts, and contributions received by the board or other general funds appropriated by the General Assembly.

Section 140. KRS 314.464 is amended to read as follows:

Each school of nursing as defined under KRS 314.011 that is located in Kentucky, whether or not awarded funding under KRS 314.450 to 314.464, shall submit an annual report by August 1 to the board, the Kentucky Board of Nursing, the Council on Postsecondary Education, the ***Education*** Cabinet[~~ for Workforce Development~~], and the Legislative Research Commission detailing its strategies for increasing the enrollment of students who graduate from the program prepared for licensure as registered nurses or licensed practical nurses. Efforts undertaken by each school to increase cultural diversity within its nursing students shall be included in the annual report to the board.

Section 141. KRS 341.005 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Cabinet" means the ***Education*** Cabinet[~~ for Workforce Development~~].

(2) "Secretary" means the secretary ***of the Education Cabinet***[~~for workforce development~~] or his ***or her*** duly authorized representative.

(3) "Commission" means the unemployment insurance commission.

Section 142. KRS 341.080 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) Except in so far as the ***Education*** Cabinet[~~ for Workforce Development~~] by regulation prescribes the equivalent thereof to meet particular conditions:

- (a) "Calendar year" means a year beginning on January 1; and
- (b) "Calendar quarter" means three (3) consecutive months beginning on January 1, April 1, July 1, or October 1;

(2) "Week" means such period of seven (7) consecutive calendar days as the ***Education*** Cabinet[~~ for Workforce Development~~] by regulation prescribes; and

(3) "Week of unemployment" means any period of seven (7) consecutive days, as prescribed by ***Education*** Cabinet[~~ for Workforce Development~~] ***administrative*** regulations, during which a worker performed less than full-time work and earned less than an amount equal to one and one-fourth (1-1/4) times the benefit rate determined for him in accordance with the provisions of subsection (2) of KRS 341.380.

Section 143. KRS 341.110 is amended to read as follows:

(1) In the ***Education*** Cabinet[~~ for Workforce Development~~] there shall be an Unemployment Insurance Commission composed of the secretary ***of Education*** or his ***or her*** duly authorized representative, as ex officio chairman and two (2) members appointed by the Governor.

(2) The secretary shall represent the state and the public. One (1) member shall be appointed as a representative of labor and one (1) as a representative of employers. The chairman and one (1) other member of the commission shall constitute a quorum.

(3) The members representing labor and employers shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their offices. They shall be citizens of this state and not less than thirty (30) years

of age.

(4) The terms of each member appointed to represent labor and employers shall be for four (4) years from the date of appointment and until a successor is appointed and qualified, except that appointments to vacancies shall be for the unexpired term.

(5) The compensation of the members representing labor and employers shall be $12,000 each per annum.

Section 144. KRS 341.125 is amended to read as follows:

(1) It shall be the duty of the secretary ***of the Education Cabinet*** to administer this chapter; and he ***or she*** shall have power and authority to make such expenditures, require such reports, make such investigations, and take such other action, not specifically assigned to the cabinet[~~ for Workforce Development~~], as he ***or she*** deems necessary for the proper administration of this chapter.

(2) The secretary is authorized, subject to the provisions of KRS Chapters 12, 42, 45, and 45A, to appoint, fix the compensation and prescribe duties and powers of such officers and employees as may be necessary in the performance of his ***or her*** duties under this chapter. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any such person so appointed such power and authority as he ***or she*** deems reasonable and proper for the effective administration of this chapter.

(3) The salary and expenses of the secretary and his ***or her*** staff shall be considered a proper cost of the administration of this chapter, to be charged to the unemployment compensation administration fund in that proportion which the cost of such services rendered in the administration of this chapter bears to the overall cost of the services rendered in the administration of the cabinet.

(4) The secretary shall submit to the Governor an annual report covering the administration and operation of this chapter and make such recommendations for amendments to this chapter as he ***or she*** deems proper.

(5) In the administration of this chapter the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state or of the United States and shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure for this state and its citizens all the advantages available under the provisions of the Social Security Act, as amended, that relate to unemployment compensation, the Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended, and the Federal-State Extended Unemployment Compensation Act of 1970.

Section 145. KRS 341.145 is amended to read as follows:

(1) The secretary ***of the Education Cabinet*** may enter into arrangements with the appropriate agencies of other states or of the federal government, or both, for the purpose of assisting the secretary and such agencies in the payment of benefits and the furnishing of services to unemployed or underemployed workers. Such arrangements may provide that the respective agencies shall, for and on behalf of each other, act as agents in effecting registrations for work, notices of unemployment, and any other certifications or statements relating to a worker's claim for benefits; in making investigations, taking depositions, holding hearings, or otherwise securing information relating to benefit eligibility and payments; and in such other matters as the secretary considers suitable in effectuating the purpose of these administrative arrangements.

(2) The secretary may enter into arrangements with the appropriate agencies of other states or the federal government whereby workers performing services in this and other states for a single employing unit under circumstances not specifically provided in KRS 341.050, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states.

(3) (a) The secretary shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states or the federal government which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two (2) or more state unemployment compensation laws, and avoiding the duplicate use of wages and employment by reason of such combining. Reimbursements to another state or the federal government, paid from the fund pursuant to this subsection, shall be deemed to be benefits for the purposes of this chapter and charged to contributory employers' reserve accounts and reimbursing employers' accounts in accordance with the provisions of subsections (2) and (3) of KRS 341.530 to the extent of calculations made on wages paid during the base period established by KRS 341.090 and wages paid after such base period; provided, however, benefits based on a period previous to the base-wage period established by KRS 341.090 shall be charged to the pooled account for contributing employers only. Provided, that if the Secretary of Labor determines that the charging of reimbursements provided above is inconsistent with the requirements of the Federal Unemployment Tax Act, charges of such reimbursements shall then be made in accordance with regulations prescribed by the secretary.

(b) In order that such reciprocal arrangements, when entered into, may be effectuated, wages for insured work under an employment security law of another state or of the federal government shall be deemed to be wages earned in covered employment from a subject employer for the purpose of determining his benefits under this chapter.

(4) Notwithstanding any other provision of this chapter, benefits shall not be denied or reduced to an individual solely because he files a claim in another state (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another state (or such a contiguous country) at the time he files a claim for benefits.

(5) To the extent permissible under the laws and Constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the United States Secretary of Labor or both, whereby:

(a) Overpayments of unemployment benefits, as determined under this chapter, shall be recoverable (after due notice and opportunity for appeal has been provided to the claimant) by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state, in either the current or any subsequent benefit year, in an amount equivalent to the amount of overpayment determined under this chapter, provided the ***Office of Employment and Training, Department of Workforce Investment,***[~~department~~] certifies to the other state the facts involved and that the claimant is liable to repay the benefits and the ***office***[~~department~~] requests the other state to recover the benefits; and

(b) Overpayments of unemployment benefits, as determined under the unemployment compensation law of another state, shall be recoverable (after such state has provided due notice and opportunity for appeal to the claimant) by offset from unemployment benefits otherwise payable under this chapter, in either the current or subsequent benefit year, in an amount equivalent to the amount of overpayment determined by such other state, provided such state certifies to the ***office***[~~department~~] the facts involved and that the individual is liable to repay the benefits and the state requests the ***office***[~~department~~] to recover the benefits; and

(c) Provided there is in effect a reciprocal agreement between this state and the United States Secretary of Labor, as authorized by Section 303(g)(2) of the Social Security Act, the overpayment of unemployment benefits or allowances for unemployment provided under a federal program administered by this state shall be recoverable by offset from benefits otherwise payable under this chapter or any such federal program. Such agreement shall also suffice to permit the offset from unemployment benefits, otherwise payable under a federal program administered by this state, the overpayment of unemployment benefits paid under this chapter.

If another state also has in effect a like agreement with the United States Secretary of Labor, then these provisions for cross-offset of state and federal unemployment benefits shall apply to benefits otherwise payable under this chapter, the laws of the other state or any federal unemployment program administered by either state.

Section 146. KRS 341.190 is amended to read as follows:

(1) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the secretary ***of the Education Cabinet***[~~for workforce development~~] considers necessary for the proper administration of this chapter. The records shall be open for inspection and subject to being copied by the secretary or his ***or her*** authorized representatives at any reasonable time and as often as necessary.

(2) The secretary[~~ for workforce development~~] may require any employing unit to furnish to the cabinet at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid off, an individual wage and hour record of each worker employed part time entitled to benefits, and other related matters, including hours worked, which the secretary[~~ for workforce development~~] considers necessary to the effective administration of this chapter.

(3) Information obtained from an employing unit or individual and other records made by the cabinet in the administration of this chapter are confidential and shall not be published or be open for public inspection, except as provided below:

(a) Information may be made available to public employees in the performance of their duties, but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released.

(b) A claimant or employing unit or his legal representative shall be provided upon request information or records maintained by the cabinet in the administration of his claim, his reserve account, his reimbursing employer account, or any proceeding under this chapter to which he is a party.

(c) Statistical information derived from information and records obtained or made by the cabinet may be published, if it in no way reveals the identity of any claimant or employing unit.

(d) Nothing in this section shall preclude the secretary or any employee of the cabinet from testifying in any proceeding under this chapter or in any court, or from introducing as evidence information or records obtained or made by the cabinet in an action for violation of state or federal law to which the cabinet is a party or upon order of the court.

(4) No information or records held confidential under subsection (3) of this section shall be the subject matter or basis for any suit for slander or libel in any court, but no employer or employee, or his representative, testifying before the commission, the secretary, or any duly authorized representative thereof, shall be exempt from punishment for perjury.

Section 147. KRS 341.200 is amended to read as follows:

(1) In the discharge of the duties imposed by this chapter members of the commission, the secretary or any duly authorized representative thereof, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence in connection with the administration of this chapter. Such subpoena shall be served in the same manner as a subpoena issued out of a Circuit Court, and the sheriff shall receive the same fee as provided by law for like service in civil actions. Witnesses subpoenaed shall be allowed witnesses' fees according to the rates prescribed by KRS 421.015 for each day their attendance is actually required at a hearing.

(2) The secretary, ***or the commission,*** or any ***of their*** authorized ***representatives***[~~representative of the secretary~~], shall have the power, in any and all counties of this Commonwealth, now granted by law to sheriffs within their respective jurisdictions, to execute and make due return of all notices, summonses, including summonses duces tecum, subpoenas, and executions in respect to all court actions instituted to enforce the provisions of this chapter.[~~ Neither~~] The secretary***, a member of the commission, or any of their authorized representatives***[~~nor his authorized representative~~] shall ***not*** be deemed to be an interested party in the action by reason of his official or representative capacity.

Section 148. KRS 341.230 is amended to read as follows:

The secretary may authorize the destruction of such original reports and records as have been properly recorded and summarized in the permanent records of the ***Education*** Cabinet[~~ for Workforce Development~~] or are no longer considered necessary for the proper administration of this chapter. Wage records of the individual worker or transcripts thereof may be destroyed or disposed of two (2) years after the expiration of the period covered by them or upon proof of death of the worker. Such destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of such records shall be deposited to the credit of the unemployment compensation administration fund.

Section 149. KRS 341.243 is amended to read as follows:

(1) There is created within the State Treasury a special fund known as the service capacity upgrade fund that shall be administered separate and apart from all public money or funds of the state.

(2) The service capacity upgrade fund shall be used solely for acquisition and upgrading of the technology base, program integrity functions, and service delivery capacity in support of the programs administered by the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~]. The secretary shall have full power, authority, and jurisdiction over the fund, including all money, property, and securities belonging thereto, and shall perform any act necessary or convenient in the administration of the fund consistent with this section. The secretary shall provide an annual report to the Interim Joint Committee on Labor and Industry detailing all receipts and expenditures of the fund.

(3) Any money collected under the provisions of this section shall be invested at interest in banks or other interest-bearing obligations of the United States. Investments shall at all times be made so that all the assets of the service capacity upgrade fund shall be convertible into cash when needed for the payment of expenses incurred in upgrading the service capacity of the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~]. All interest income received under this section shall be credited to the fund. The State Treasurer shall dispose of securities or other property belonging to the fund only under the direction of the secretary and the secretary of the Finance and Administration Cabinet.

(4) Effective January 1, 1999, all rates otherwise established under KRS 341.270 and 341.272 shall be reduced by subtracting seventy-five thousandths percent (0.075%) from each rate, but only if the trust fund balance as of December 31 of the preceding year is equal to or greater than one and eighteen hundredths percent (1.18%) of the total wages paid in the state during the state fiscal year ended as of June 30 of that year.

(a) If the trust fund balance as of December 31, 1999, is less than the trust fund balance as of December 31, 1998, the amount of the rate reduction for calendar year 2000 shall be reduced by forty percent (40%) to the level of forty-five thousandths percent (0.045%).

(b) If the trust fund balance as of December 31, 2000, is less than the trust fund balance as of December 31, 1999, the amount of the rate reduction for calendar year 2001 shall be forty percent (40%) less than the amount of the rate reduction which was in effect in calendar year 2000.

(5) For any calendar year in which all rates have been reduced in accordance with subsection (4) of this section, all contributory employers shall pay into the service capacity upgrade fund an amount equal to the percentage by which rates were reduced multiplied by their taxable wages paid during that calendar year. Payments shall be made at the same time and in the same manner as prescribed for payment of contributions under KRS 341.260 and all regulations prescribed by the secretary in support of that section. The restrictions in KRS 341.470(1) apply equally to the provisions of this section. Failure to make these payments shall be subject to interest and all other collection actions provided for failure to make contributions under KRS 341.300.

(6) All payments required under subsection (5) of this section, along with any interest due to late payment of these assessments, shall be deposited in the service capacity upgrade fund.

(7) The provisions of this section shall expire with regard to rates assigned for calendar years beginning after December 31, 2001, and any balance of moneys or property in the fund not expended or obligated for purposes consistent with this section by June 30, 2002, shall be deposited in the unemployment insurance trust fund.

Section 150. KRS 341.245 is amended to read as follows:

Subject to the provisions of KRS 56.440 to 56.550, inclusive, the secretary ***of the Education Cabinet*** is authorized and empowered to use all or any part of the funds accumulated under the provisions of KRS 341.295 for the purpose of acquiring suitable space for either central or district offices of the cabinet by way of purchase, lease, contract, or in any other manner including the right to use said funds or any part thereof to assist in financing the construction of any building erected by the Commonwealth or any of its agencies wherein available space will be provided for the cabinet under lease or contract between the cabinet and the Commonwealth or such other agency whereby said cabinet will continue to occupy such space, rent free, after the cost of financing such building has been liquidated.

Section 151. KRS 341.250 is amended to read as follows:

(1) Any employing unit that becomes subject to this chapter within any calendar year shall be considered a subject employer during the whole of that calendar year, except as specifically provided elsewhere in this section or this chapter.

(2) Except as provided in subsections (3) and (5) of this section, a subject employer shall cease to be a subject employer only as of the first day of January of any calendar year if he files with the ***Office of Employment and Training, Department of Workforce Investment***[~~department~~], on or before the fifteenth day of April of that year, a written application for termination of coverage, and the covered employment performed for such subject employer within the preceding calendar year was not sufficient to render an employing unit a subject employer under KRS 341.070. The secretary may, however, after notifying such employer in writing at his last known address, terminate the coverage of any subject employer as of the first day of January of any calendar year if such subject employer has had no individuals in covered employment in this state at any time during the three (3) preceding calendar years, and the balance of such employer's reserve account may be immediately transferred to the pooled account.

(3) (a) Any employing unit not otherwise subject to this chapter that files with the ***office***[~~department~~] its written election to become a subject employer for not less than two (2) calendar years shall, with the written approval of such election by the secretary, become subject hereto to the same extent as all other subject employers, as of the date stated in such approval, but not with respect to the period previous to such date. Such subject employer shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two (2) calendar years, only if on or before April 15 of such year, it has filed with the ***office***[~~department~~] a written notice to that effect.

(b) Any employing unit for which services that do not constitute covered employment are performed may file with the ***office***[~~department~~] a written election that all such services performed by individuals in its employ in one (1) or more distinct establishments or places of business shall be considered to constitute covered employment by a subject employer for all the purposes of this chapter for not less than two (2) calendar years. Upon written approval of such election by the secretary, such services shall be considered to constitute covered employment from and after the date stated in such approval, but not with respect to the period previous to such date. Such services shall cease to be considered covered employment subject hereto as of January 1 of a calendar year subsequent to such two (2) calendar years, only if on or before April 15 of such year such employing unit has filed with the ***office***[~~department~~] a written notice to that effect.

(c) Any employing unit having service performed in covered employment solely by reason of paragraph (h) of subsection (1) of KRS 341.050 may terminate such service as "covered employment" as of the first day of January of any calendar year if such service does not meet the provisions of paragraph (e), (f) or (g), but only if on or before April 15 of such year, the employing unit has filed with the ***office***[~~department~~] a written request to terminate service as "covered employment."

(4) An employing unit that becomes a subject employer under subsection (7) of KRS 341.070, shall become subject as of the date of acquisition.

(5) Notwithstanding the provisions of subsections (1), (2), and (3) of this section, any subject employer whose entire reserve account has been transferred to a successor in interest as provided for in KRS 341.540 shall immediately cease to be a subject employer and shall thereafter become a subject employer only upon his future employment experience.

Section 152. KRS 341.260 is amended to read as follows:

(1) Contributions shall accrue and become payable by each subject employer for each calendar year in which he is subject to this chapter. Such contributions shall be based upon wages paid during such calendar year for covered employment. Such contributions shall become due and be paid at the offices of the ***Office of Employment and Training, Department of Workforce Investment,***[~~department~~] in Frankfort by each subject employer to the ***office***[~~department~~] for the fund in accordance with such regulations as the secretary prescribes, and shall not be deducted in whole or in part from the wages of workers in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded, unless it amounts to one-half cent ($0.005) or more, in which case it shall be increased to one cent ($0.01).

(2) Any contractor, who is or becomes a subject employer under the provisions of this chapter, who contracts with any subcontractor, who also is or becomes a subject employer under the provisions of this chapter, shall withhold sufficient moneys on said contract to guarantee that all contributions, penalties, and interest are paid upon completion of said contract, or shall require of said subcontractor a good and sufficient bond guaranteeing payment of all contributions, penalties, and interest due, or to become due with respect to wages paid for employment on said contract. Failure to comply with the provisions of this section shall render said contractor directly liable for such contributions, penalties, and

interest due from said subcontractor and the wages paid by said subcontractor shall be deemed wages paid by the said contractor with respect to the same periods for all purposes under this chapter, and liens of the same nature are attachable and enforceable in the same manner as liens under KRS 341.310 and 341.315. A person, employing unit, or entity that enters into a verbal or written agreement with another, or between which there exists an implied contract based upon the circumstances, conduct, or acts or relations of the parties:

(a) To have work performed consisting of the removal, excavation or drilling of soil, rock, or mineral, or the cutting or removal of timber from land, or

(b) To have work performed of a kind which is a customary or a recurrent part of the work of the trade, business, occupation, or profession of such person or entity, shall for the purposes of this subsection be deemed a contractor, and such other person or entity a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.

Section 153. KRS 341.270 is amended to read as follows:

(1) Except as otherwise provided in this section, each employer's contribution rate shall be three percent (3%). Effective for employers who become subject to this chapter on or after January 1, 1999, except as otherwise provided in this section, each employer's contribution rate shall be two and seven-tenths percent (2.7%).

(2) Except as otherwise provided in this section, no subject employer's contribution rate shall be less than two and seven-tenths percent (2.7%), unless he has been an employer subject to the provisions of this chapter for twelve (12) consecutive calendar quarters ended as of the computation date. In any calendar year in which the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no subject employer who was assigned an entry rate of three percent (3.0%) under the provisions of subsection (1) of this section prior to January 1, 1999, shall have a contribution rate less than two and eight hundred fifty-seven thousandths percent (2.857%), unless subject to this chapter for the minimum time period specified above.

(3) For the calendar year 2001 and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. For each calendar year, the secretary shall determine the rate schedule to be in effect based upon the "trust fund balance" as of December 31 of the preceding year. If the "trust fund balance":

(a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total wages paid in covered employment in the state during the state fiscal year ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy Rates" schedule of "Table A" shall be in effect.

(b) Equals or exceeds three hundred fifty million dollars ($350,000,000) but is less than the amount required to effectuate the "Trust Fund Adequacy Rates" schedule as provided in paragraph (a) of this subsection, the rates listed in "Schedule A" of "Table A" shall be in effect.

(c) Equals or exceeds two hundred seventy-five million dollars ($275,000,000) but is less than three hundred fifty million dollars ($350,000,000), the rates listed in "Schedule B" of "Table A" shall be in effect.

(d) Equals or exceeds two hundred fifty million dollars ($250,000,000) but is less than two hundred seventy-five million dollars ($275,000,000), the rates listed in "Schedule C" of "Table A" shall be in effect.

(e) Equals or exceeds one hundred fifty million dollars ($150,000,000) but is less than two hundred fifty million dollars ($250,000,000), the rates listed in "Schedule D" of "Table A" shall be in effect.

(f) Is less than one hundred fifty million dollars ($150,000,000), the rates listed in "Schedule E" of "Table A" shall be in effect.

(4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A," as set out below, effective with respect to the calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A

Rate Schedule

Employer Reserve Ratio	Trust Fund Adequacy Rates	A	B	C	D	E
8.0% and over	0.000%	0.30%	0.40%	0.50%	0.60%	1.00%
7.0% but under 8.0%	0.000%	0.40%	0.50%	0.60%	0.80%	1.05%

6.0% but under 7.0%	0.008%	0.50%	0.60%	0.70%	0.90%	1.10%
5.0% but under 6.0%	0.208%	0.70%	0.80%	1.00%	1.20%	1.40%
4.6% but under 5.0%	0.508%	1.00%	1.20%	1.40%	1.60%	1.80%
4.2% but under 4.6%	0.808%	1.30%	1.50%	1.80%	2.10%	2.30%
3.9% but under 4.2%	1 .008%	1.50%	1.70%	2.20%	2.40%	2.70%
3.6% but under 3.9%	1.308%	1.80%	1.80%	2.40%	2.60%	3.00%
3.2% but under 3.6%	1.508%	2.00%	2.10%	2.50%	2.70%	3.10%
2.7% but under 3.2%	1.608%	2.10%	2.30%	2.60%	2.80%	3.20%
2.0% but under 2.7%	1.708%	2.20%	2.50%	2.70%	2.90%	3.30%
1.3% but under 2.0%	1.808%	2.30%	2.60%	2.80%	3.00%	3.40%
0.0% but under 1.3%	1.908%	2.40%	2.70%	2.90%	3.10%	3.50%
-0.5% but under -0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%
-1.0% but under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%
-1.5% but under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%
-2.0% but under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%
-3.0% but under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%
-4.0% but under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%
-6.0% but under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%
-8.0% but under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%
Less than -8.0%.	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

(a) "Trust fund balance" means the amount of money in the unemployment insurance fund, less any unpaid advances made to the state under Section 1201 of the Social Security Act. In determining the amount in the fund as of a given date all money received by the ***Office of Employment and Training, Department of Workforce Investment,***~~[department]~~ on that date shall be considered as being in the fund on that date.

(b) "Total wages" means all remuneration for services, as defined in KRS 341.030(1) to (7), paid by subject employers.

(c) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the twelve (12) consecutive calendar quarters ended as of September 30 immediately preceding the computation date.

(d) For the purposes of this section, an employer's "reserve account balance" means the amount of contributions credited to his reserve account as of the computation date, less the benefit charges through September 30 immediately preceding the computation date. If benefits charged to an account exceed contributions credited to the account, the account shall be considered as having a debit balance and a reserve ratio of "less than zero."

(e) "Computation date" is October 31 of each calendar year prior to the effective date of new rates of contributions.

Section 154. KRS 341.275 is amended to read as follows:

(1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code. For the purpose of this section, "cabinet" shall mean the ***Education*** Cabinet[~~ for Workforce Development~~] and "secretary" shall mean the secretary ***of the Education Cabinet***[~~for workforce development~~].

(2) Any nonprofit organization which, pursuant to KRS 341.070(4), is, or becomes, a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay to the cabinet for the fund an amount equal to the amount of regular benefits and of one-half (1/2) of the extended benefits paid to workers for weeks of unemployment that is attributable to service in the employ of the nonprofit organization, performed during the effective period of the election but only if the employer is the worker's most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for that employer in each of ten (10) weeks whether or not consecutive.

(a) Any nonprofit organization which is, or becomes, a subject employer on July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of 1972 and the calendar year of 1973, provided it files with the cabinet a written notice of its election within the thirty (30) day period immediately following such date.

(b) Any nonprofit organization which becomes a subject employer after July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the period of subjectivity during the year in which such subjectivity begins and the following calendar year by filing a written notice of its election with the cabinet not later than thirty (30) days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with paragraph (a) or paragraph (b) of this subsection will continue to be liable for payments in lieu of contributions until it files with the secretary a written notice terminating its election not later than thirty (30) days prior to the beginning of the calendar year for which such termination shall first be effective, except that liability for payments in lieu of contributions shall continue thereafter with respect to wages paid prior to the effective date of such termination.

(d) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to July 1, 1972, may change to a reimbursable basis by filing with the cabinet not later than thirty (30) days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such organization for that and the following year.

(e) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The secretary shall notify each nonprofit organization of any determination which may be made of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).

(3) Payments in lieu of contributions shall be made in accordance with the provisions of this subsection.

(a) At the end of each calendar quarter, the cabinet shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such quarter plus any prior period adjustments, which are attributable to service performed in covered employment in the employ of such organization.

(b) Payment of any bill rendered under paragraph (a) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.

(c) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the organization.

(d) The amount due specified in any bill from the secretary shall be conclusive on the organization unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the ***commissioner***[~~cabinet~~], setting forth the grounds for such appeal. Proceedings on appeal to the ***commissioner***[~~cabinet~~] from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430 and the decision of the ***commissioner***[~~cabinet~~] shall be subject to review under the provisions of KRS 341.460(1).

(e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest, penalties, collection service, and lien provisions that, pursuant to KRS 341.300 to 341.310, apply to past-due contributions.

(4) (a) The secretary may, in accordance with regulations prescribed by the cabinet, require any nonprofit organization that elects to become liable for payments in lieu of contributions to deposit with the cabinet, within thirty (30) days after the effective date of its election as a condition thereof, money equal to two percent (2%) of the organization's total wages paid for employment as defined in KRS 341.050(1)(e) for the four (4) calendar quarters immediately preceding the effective date of such election. If the nonprofit organization did not pay wages in each of such four (4) calendar quarters, the amount of the deposit shall be as determined by the secretary.

(b) Money deposited in accordance with this subsection shall be retained by the cabinet in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The cabinet may deduct from the money deposited under this subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in paragraph (e) of subsection (3) of this section. The secretary shall require the organization within thirty (30) days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the organization's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within thirty (30) days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.

(c) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the secretary may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; provided, that the secretary may extend for good cause the applicable filing, deposit, or adjustment period by not more than sixty (60) days.

(5) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year.

(6) Notwithstanding any other section of this chapter, no employing unit electing to make payments in lieu of contributions under the provisions of this section shall be entitled to relief of benefit charges.

Section 155. KRS 341.300 is amended to read as follows:

(1) Contributions unpaid on the date on which they are due and payable, as prescribed by the secretary, shall be subject to interest at the rate of one and five-tenths percent (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the amount of such contributions, from and after such date until payment is received by the ***Office of Employment and Training, Department of Workforce Investment***[~~department~~], irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section or is the subject of an administrative appeal or court action. Such interest shall be paid into the unemployment compensation administration fund.

(2) If, after due notice, any subject employer defaults in any payment of contributions, interest or penalties thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending upon the jurisdictional amount in controversy including interest and penalties in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workers' compensation law.

(3) At or after the commencement of an action under subsection (2) of this section attachment may be had against the property of the liable subject employer for such contributions, interest and penalties without the execution of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.

(4) An action for the recovery of contributions, interest or penalties under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within five (5) years from the due date of such contributions, except in the case of the filing of a false or fraudulent report the contributions due shall not be barred and may at any time be collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 156. KRS 341.360 is amended to read as follows:

No worker may be paid benefits for any week of unemployment:

(1) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that benefits may be paid unless the employer notifies the ***Office of Employment and Training, Department of Workforce Investment,***[~~department~~] in writing within seven (7) days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall be denied benefits by reason of a lockout;

(2) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States. But if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply; or

(3) (a) Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in subsection (2) of KRS 341.067 or in an educational institution as defined in subsection (4) of KRS 341.067, begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that the worker will perform such services in any such capacity for any institution or institutions of higher education or an educational institution in the second of such academic years or such terms; or

(b) Which, when based on service other than as defined in paragraph (a) of this subsection, in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, begins during the period between two (2) successive academic years or terms, if the worker performs such services in the first of such academic years or terms and there is a reasonable assurance that the worker will perform such services in the second of such academic years or terms; except that if benefits are denied to any worker under this paragraph and such worker was not offered an opportunity to perform such services for such institution of higher education or such educational institution for the second of such academic years or terms, such worker shall be entitled to a retroactive payment of benefits for each week for which the worker filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph; or

(c) Which, when based on service in any capacity defined in paragraphs (a) and (b) of this subsection, begins during an established and customary vacation period or holiday recess if the worker performs any such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such worker will perform any such services in the period immediately following such vacation period or holiday recess; or

(d) Based on service in any capacity defined in paragraph (a) or (b) of this subsection when such service is performed by the worker in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, while the worker is in the employ of an educational service agency, and such unemployment begins during the periods and pursuant to the conditions specified in paragraphs (a), (b), and (c) of this subsection. For purposes of this paragraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one (1) or more institutions of higher education or educational institutions.

(4) Except that any benefits paid to a worker based on service other than as defined in subsection (3)(a) of this section performed in an institution of higher education as defined in subsection (2) of KRS 341.067 shall be deemed to have been paid as a result of ***Office of Employment and Training, Department of Workforce Investment,***[~~departmental~~] error and not recoverable by the cabinet or such institution if such payment is improper by virtue of the retroactive application to October 30, 1983, of subsection (3)(b) of this section.

(5) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(6) (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act).

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

(7) With respect to which the worker is suspended from work for misconduct, as defined in KRS 341.370(6), connected with the work.

Section 157. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or

(c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for leaving his next most recent suitable work which was concurrent with his most recent work, or for leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home, or for otherwise accepting work which is a bona fide job offer with a reasonable expectation of continued employment.

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the ***Education*** Cabinet~~[for Workforce Development]~~ and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the ***Education*** Cabinet~~[for Workforce Development]~~ of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.

(5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.

(6) "Discharge for misconduct" as used in this section shall include, but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.

(7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Section 158. KRS 341.420 is amended to read as follows:

(1) The secretary shall appoint one (1) or more impartial referees according to KRS 341.125 to hear and decide appealed claims.

(2) A party to a determination may file an appeal to a referee as to any matter therein within fifteen (15) days after the date such determination was mailed to his last known address.

(3) If benefits are allowed by a determination of the secretary, or a decision of a referee, ***the commission,*** the secretary or a reviewing-court, such benefits shall be paid promptly without regard to the pendency of an appeal or period for filing an appeal therefrom. If a determination or decision allowing benefits is modified or reversed by a subsequent determination or decision, benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modification or denial. No injunction, supersedeas, stay or other writ or process suspending payment of such benefits shall be issued.

(4) Unless such appeal is withdrawn, a referee, after affording the parties reasonable opportunity for a fair hearing, shall affirm or modify the determination. The parties shall be duly notified of his decision, together with the reasons therefor, which shall be deemed to be the final decision unless within fifteen (15) days after the date of mailing of such decision, further appeal is initiated under KRS 341.430.

(5) No finding of fact or law, judgment, conclusion, or final order made with respect to a claim for unemployment compensation under this chapter may be conclusive or binding in any separate or subsequent action or proceeding in another forum, except proceedings under this chapter, regardless of whether the prior action was between the same or related parties or involved the same facts.

Section 159. KRS 341.440 is amended to read as follows:

(1) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the secretary for determining the rights of the parties, such hearings to be conducted in a summary manner. A complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically, but need not be transcribed unless further appealed. No examiner, referee or member of the commission shall participate in any hearing in which he is an interested party.

(2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430 shall be allowed fees in accordance with rates allowed by law. Such fees and all expenses of proceedings before the ***cabinet***[~~department~~] or commission involving disputed claims shall be deemed a part of the expense of administering this chapter.

(3) In the absence of an appeal therefrom, decisions of the commission shall become final twenty (20) days after the date they are made.

Section 160. KRS 341.410 is amended to read as follows:

The ***secretary***[~~commissioner~~] acting through his duly authorized representatives shall, upon request, determine the insured status of a worker. If a worker is found to have fully insured status, as defined in subsection (3) of KRS 341.090, the division shall notify all interested parties. If found to be not fully insured, the division shall notify the worker. The commissioner may, at any time within a worker's benefit year, make such further determinations as may affect the worker's eligibility for benefits or may set aside, reconsider, modify, or amend a determination at any time on the basis of additional information or to correct a clerical mistake. The commission may by regulation prescribe what constitutes a determination as used in this section and subsections (2) and (3) of KRS 341.420.

Section 161. KRS 341.415 is amended to read as follows:

(1) Any person who has received any sum as benefits under this chapter or any other state's unemployment insurance statutes or any United States Department of Labor unemployment insurance benefit program providing the secretary has signed a reciprocal agreement with such other state or the United States Department of Labor as provided in KRS 341.145, while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, or if he has received benefits in weeks for which he later receives a back pay award, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the ***Office of Employment and Training, Department of Workforce Investment,***[~~department~~] for the fund a sum equal to the amount so received by him. If after due notice the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected in the manner provided in KRS 341.300(2) for collection of past-due contributions and any sums so collected shall be credited to the pooled account or the appropriate reimbursing employer account. However, if the benefit was paid as a result of ***office***[~~departmental~~] error as defined by administrative regulation, there shall be no recoupment or recovery of an improperly paid benefit, except by deduction from any future benefits payable to him under this chapter. For purposes of this section, overpayments as a result of a reversal of entitlement to benefits in the appeal or review process shall not be construed to be the result of ***office***[~~departmental~~] error.

(2) At or after the commencement of an action under subsection (1) of this section, attachment may be had against property of the recipient of improperly paid benefits in the manner provided in KRS 341.300(3).

(3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby created in favor of the department upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined and shall continue until the amount of the overpayment plus any subsequent assessment of additional improperly paid benefits, interest, and fees are fully paid. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.

(4) Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under subsections (1), (2), and (3) of this section, which has neither been repaid nor so deducted within a period of five (5) years following the last day of the benefit year within which it was paid, may be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person within a period of ten (10) years of the last day of the benefit year within which such payments were made at which time these amounts may be declared uncollectible. Nothing in this subsection shall be deemed to affect collection of improperly paid benefits pursuant to a judgment or other legal remedy.

(5) In the event benefits have been paid as a result of false statement, misrepresentation, or concealment of material information by a recipient of benefits and have not been repaid by the recipient within one (1) calendar year from the date of the first notice, interest at the rate of one and five-tenths percent (1.5%) per month or any part thereof, shall be imposed on and added to the unpaid balance each successive month, providing due notice has been given to the recipient. Such interest shall be paid into the unemployment compensation administration account.

(6) The deduction from future benefits specified in subsection (1) of this section shall be limited to twenty-five percent (25%) of the benefit amount otherwise payable under this chapter unless the overpayment resulted from a backpay award, false statement, misrepresentation, or concealment of material information by a recipient of benefits. In these instances, the rate of deduction shall be one hundred percent (100%). The rate of deduction from benefits payable by another state or the United States of America shall be determined by the applicable state or federal statute.

Section 162. KRS 341.440 is amended to read as follows:

(1) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the secretary for determining the rights of the parties, such hearings to be conducted in a summary manner. A complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically, but need not be transcribed unless further appealed. No examiner, referee or member of the commission shall participate in any hearing in which he is an interested party.

(2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430 shall be allowed fees in accordance with rates allowed by law. Such fees and all expenses of proceedings before the ***Office of Employment and Training, Department of Workforce Investment,***~~[department]~~ or commission involving disputed claims shall be deemed a part of the expense of administering this chapter.

(3) In the absence of an appeal therefrom, decisions of the commission shall become final twenty (20) days after the date they are made.

Section 163. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. In cases involving awards to a worker by an arbitrator, court, or other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the ***Office of Employment and Training, Department of Workforce Investment***~~[Department for Employment Services, Cabinet for Workforce Development]~~ prior to paying any back pay award.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary, or his ***or her*** representatives. Any worker claiming benefits in any proceeding before a referee or the commission may represent himself ***or herself*** or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) (a) Any employer in any proceeding before a referee or the commission may represent himself ***or herself*** or may be represented by counsel or other agent duly authorized by such employer; and

(b) Any person appearing in any proceeding before a referee or the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.

(4) No assignment, pledge, or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392 and withholding for federal and state income tax in accordance with KRS 341.395.

Section 164. KRS 341.530 is amended to read as follows:

(1) The ***Office of Employment and Training, Department of Workforce Investment,***~~[department]~~ shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged against the reserve account or reimbursing employer account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive back to the beginning of the worker's base period.

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the ***office***[~~department~~], in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.

(5) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.

(6) Any subject contributing employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary contributions by any employer subject to a minimum rate as provided in KRS 341.270(2) or KRS 341.272(1) shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

Section 165. KRS 341.540 is amended to read as follows:

(1) Any employing unit which succeeds to or acquires the organization, trade, or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including interest, and shall continue the payment of all contributions and interest due under this chapter, except that the successor or acquirer shall not be required to assume the liability of any delinquent contributions and interest of a predecessor or predecessors unless the cabinet notifies the successor or acquirer of the delinquency within six (6) months after the ***Office of Employment and Training, Department of Workforce Investment,***[~~department~~] has notice of the succession or acquisition.

(2) The liability for delinquent contributions and interest imposed upon the successor or acquirer by subsection (1) of this section shall be secondary to the liability of the predecessor or predecessors, and if the delinquency has been reduced to judgment, the order of execution on the judgment shall be as follows:

(a) Against the assets, both real and personal, of the predecessor or predecessors;

(b) Against the assets, both real and personal, of the business acquired; and

(c) Against the assets, both real and personal, of the successor or acquirer.

(3) Notwithstanding the provisions of subsection (1), any employing unit which succeeds to or acquires a segregable and identifiable portion of the organization, trade, or business from a subject employer, and who is, or by reason of the succession or acquisition becomes, a subject employer, shall assume the position of an employer with respect to the resources and liabilities of the reserve account in proportion to the percentage of the payroll or employees assignable to the transferred portion. In calculating the transferred portion, the secretary shall utilize the last four (4) calendar quarters, preceding the date of succession or acquisition, for workers employed by the successor subsequent to that date. The taxable payroll, benefit charges and the potential benefit charges shall likewise be assumed by the successors or acquirers in interest in a like proportion.

(4) (a) The contribution rate of a successor or acquirer employing unit, whether in whole or in part, which was a subject employer prior to such succession or acquisition, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which such succession or acquisition occurred.

(b) The contribution rate of a successor or acquirer employing unit, either in whole or in part, which was not a subject employer prior to such succession or acquisition, shall be, for the calendar year in which such succession or acquisition occurred, the same rate as that of its predecessor.

(c) The contribution rate for a successor or acquirer employing unit, which was not a subject employer prior to the simultaneous succession to or acquisition of two (2) or more predecessor reserve accounts, either in whole or in part, shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the reserve accounts succeeded to or acquired as they existed as of the computation date for determining rates for the calendar year in which such succession or acquisition occurred.

(d) The contribution rate of a successor or acquirer employing unit which succeeds to or acquires, either in whole or in part, a predecessor's reserve account after a computation date but prior to the beginning of the calendar year immediately following such computation date shall be the rate determined, in accordance with KRS 341.270, by effecting the transfer of such reserve account as of the computation date immediately preceding the date of such succession or acquisition.

Section 166. KRS 341.990 is amended to read as follows:

(1) Any employee of any state ***agency***[~~department~~] who violates any of the provisions of KRS 341.110 to 341.230 shall be guilty of a Class B misdemeanor.

(2) Any person subpoenaed to appear and testify or produce evidence in an inquiry, investigation, or hearing conducted under this chapter who fails to obey the subpoena shall be guilty of a Class B misdemeanor.

(3) Any subject employer, or officer or agent of a subject employer, who violates subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(5) Any person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact to the secretary to obtain or increase any benefit under this chapter or under an employment security law of any other state, or of the federal government, either for himself or for any other person, business entity, or organization shall be guilty of a Class A misdemeanor unless the value of the benefits procured or attempted to be procured is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(6) (a) Any person who knowingly makes a false statement or representation, or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject to this chapter, or to avoid or reduce any payment required of an employing unit under this chapter shall be guilty of a Class A misdemeanor unless the liability avoided or attempted to be avoided is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(b) Any person who willfully fails or refuses to furnish any reports required, or to produce or permit the inspection or copying of records required in this chapter shall be guilty of a Class B misdemeanor. Each such false statement, representation or failure and each day of failure or refusal shall constitute a separate offense.

(7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall be a defense if the person relied on the advice of an employee or agent of the ***Office of Employment and Training, Department of Workforce Investment***[~~department~~].

(8) Any person who willfully violates any provision of this chapter or any rule or regulation under it, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which no specific penalty is prescribed in this chapter or in any other applicable statute, shall be guilty of a violation. Each day the violation continues shall constitute a separate offense.

Section 167. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work

as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~], ***Education*** Cabinet[~~ for Workforce Development~~]. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 168. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of September 1 preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky Revenue Cabinet shall credit nineteen million dollars ($19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars ($19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars ($4,750,000).

(d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a group self-insurance association.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The ***Office of Employment and Training, Education Cabinet***~~[Department for Employment Services, Cabinet for Workforce Development]~~ is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, group self-insurer, or insurance carrier shall provide any information and submit any reports the Revenue Cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provision of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 169. KRS 342.143 is amended to read as follows:

For the purposes of this chapter, the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage shall be certified to the commissioner by the ***Education*** Cabinet~~[for Workforce Development]~~ in a manner prescribed by the commissioner by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disability in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar ($1) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars ($2) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made. Notwithstanding the provisions of this section, KRS 342.140, 342.740, or any other provisions of this chapter to the contrary, the average weekly wage for calendar years 1995 and 1996 shall be determined to be no higher than the average weekly wage determined by the commissioner to be in effect in the calendar year of 1994. If the average weekly wage calculated by the commissioner is determined to be lower than the 1994 calendar year wage, the average weekly wage may be lowered as provided by this section. Beginning in calendar year 1997 and annually thereafter, the average weekly wage shall be calculated based upon the state average weekly wage in effect two (2) years prior to that calculation.

Section 170. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.

(2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The commissioner shall cooperate on a reciprocal basis with the ***Office***~~[Department]~~ of Vocational Rehabilitation and the ***Office of***~~[Department for]~~ Employment ***and Training***~~[Services]~~ of the ***Education***~~[Kentucky]~~ Cabinet~~[for Workforce Development]~~. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the ***Office***~~[Department]~~ of Vocational Rehabilitation or ***Office of***~~[Department for]~~ Employment ***and Training***~~[Services]~~ following the refusal by the employer or his insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.

(7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly

benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

Section 171. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:

(a) 1. If an employee has a radiographic classification of category 1/0, 1/1 or 1/2, coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks, except as provided in subparagraph 3. of this paragraph.

2. Except as provided in subparagraph 3. of this paragraph, these benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking the equivalent of twelve (12) or more credit hours per week in a bona fide training or education program that if successfully completed will qualify the person completing the course for a trade, occupation, or profession and which program can be completed within the period benefits are payable under this subsection. The program must be approved under administrative regulations to be promulgated by the commissioner. These benefits shall also be paid to an employee who is a part-time student taking not less than the equivalent of six (6) nor more than eleven (11) credit hours per week, except that benefits shall be an amount equal to thirty-three and one-third percent (33-1/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than thirty-seven and one-half percent (37-1/2%) of the state average weekly wage, payable biweekly for a period not to exceed two hundred eight (208) weeks.

3. These benefits shall also be paid biweekly while an employee is actively and successfully pursuing a General Equivalency Diploma (GED) in accordance with administrative regulations promulgated by the commissioner. These benefits shall be paid in the amount of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage not to exceed seventy-five percent (75%) of the state average weekly wage for a maximum period not to exceed seventeen (17) weeks. These income benefits shall be in addition to the maximum amount of retraining incentive benefits payable under this paragraph.

4. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars ($5,000).

5. The period of weeks during which this benefit is payable shall begin no later than the thirtieth day after the administrative law judge's order awarding the benefit becomes final, except that an employee may elect to defer the beginning of such benefits up to the three hundred sixty-fifth day following the thirtieth day the order becomes final. Unless the employee has requested deferral of income benefits, those income benefits payable under subparagraphs 1. and 2. of this paragraph shall begin no later than thirty (30) days following conclusion of income benefits paid under subparagraph 3. if such benefits were paid.

6. If an employee who is awarded retraining incentive benefits under this paragraph successfully completes a bona fide training or education program approved by the commissioner, upon completion of the training or education program, the employer shall pay to that employee the sum of five thousand dollars ($5,000) for successful completion of a program that requires a course of study of not less than twelve (12) months nor more than eighteen (18) months, or the sum of ten thousand dollars ($10,000) for successful completion of a program that requires a course of study of more than eighteen (18) months. This amount shall be in addition to retraining incentive benefits awarded under this paragraph, and tuition expenses paid by the employer.

7. An employee who is age fifty-seven (57) years or older on the date of last exposure and who is awarded retraining incentive benefits under subparagraph 1. to 4. of this paragraph, may elect to receive in lieu of retraining incentive benefits, an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%) for a period not to exceed four hundred twenty-five (425) weeks, or until the employee reaches sixty-five (65) years of age, whichever occurs first, KRS 342.730(4) notwithstanding.

8. A claim for retraining incentive benefits provided under this section may be filed, but benefits shall not be payable, while an employee is employed in the severance or processing of coal as defined in KRS 342.0011(23).

9. If an employer appeals an award of retraining incentive benefits, upon an employee's motion, an administrative law judge may grant retraining incentive benefits pending appeal as interlocutory relief.

10. If an employee elects to defer payment of retraining incentive benefits for a period of retraining longer than three hundred sixty-five (365) days, benefits otherwise payable shall be reduced week-for-week for each week retraining benefits are further deferred.

(b) 1. If an employee has a radiographic classification of category 1/0, 1/1, or 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more of the predicted normal values, there shall be an irrebuttable presumption that the employee has a disability rating of twenty-five percent (25%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.

2. An employee who is awarded benefits under this paragraph may, at the time of the award or before benefit payments begin, elect to receive retraining incentive benefits provided under subparagraphs 1. to 6. of paragraph (a) of this subsection, in lieu of income benefits awarded under this paragraph, provided that such option is available one (1) time only and is not revokable, and provided that in no event shall income benefits payable under this paragraph be stacked or added to retraining incentive income benefits paid or payable under subparagraphs 1. to 6. of paragraph (a) of this subsection to extend the period of disability.

(c) If it is determined that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 3/2 or 3/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, there shall be an irrebuttable presumption that the employee has a disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of fifty percent (50%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.

(d) If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee has a seventy-five percent (75%) disability rating resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of seventy-five percent (75%). The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability.

(e) If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or complicated pneumoconiosis (large opacities category A, B, or C progressive massive fibrosis), there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) Upon request, the commissioner shall refer an employee who has been awarded retraining incentive benefits under subsection (1)(a) of this section to the ***Office***~~[Department]~~ of Vocational Rehabilitation for evaluation and assessment of the training, education, or other services necessary to prepare the employee for a trade, occupation, or profession that will

return the employee to remunerative employment, or services necessary and appropriate to prepare and enable the employee to successfully complete a bona fide training or education program approved by the commissioner. The commissioner shall contract with the ***Office***[~~Department~~] of Vocational Rehabilitation to provide vocational rehabilitation or education services commensurate with the skill levels and abilities of the employee. Services provided under this subsection shall be funded by the coal workers' pneumoconiosis fund, KRS 342.1242 notwithstanding.

(5) The commissioner shall promulgate administrative regulations sufficient to effectuate the provisions relating to retraining incentive benefits provided under subsection (1)(a) of this section. The administrative regulations shall:

(a) Define a "bona fide training or education program" to mean a postsecondary education or training program, including but not limited to the postsecondary programs registered with the Higher Education Assistance Authority, and successful completion of which will qualify the person completing the course for a trade, occupation, or profession, and which program can be completed within the period benefits are payable under subsection (1)(a) of this section;

(b) Establish requirements for approval and certification of a bona fide training or education program;

(c) Provide that funds paid to the training or education program by the employer as required under subsection (1)(a)4. of this section shall be applied only to instruction, tuition, material costs, and any fees necessary for the completion of the program;

(d) Establish requirements for successful participation in and completion of an approved and certified bona fide training or education program, and eligibility standards that must be satisfied to receive sums to be paid by the employer pursuant to subsection (1)(a)6. of this section; and

(e) Establish attendance, performance and progress standards, and reporting requirements in consultation with the Department of Adult Education and Literacy as conditions that must be satisfied to receive retraining incentive income benefits pursuant to subsection (1)(a)3. of this section.

(6) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability and in no event shall income or retraining incentive benefits be paid to the employee while the employee is working in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a).

Section 172. KRS 342.740 is amended to read as follows:

(1) For the purposes of this chapter, the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. This average weekly wage shall be certified to the commissioner by the ***Education*** Cabinet[~~ for Workforce Development~~] in a manner prescribed by the commissioner by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

(2) Whenever a change in the average weekly wage of the state is of an amount that increases or decreases the minimum weekly income benefits for total disability or death by $1 or more, or the maximum weekly income benefits for total disability or for death by $2 or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in these limitations shall otherwise be made.

Section 173. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless the privilege is expressly granted by the court, the prisoner shall be sentenced to ordinary confinement. The prisoner may petition the sentencing court for the privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.

(3) The jailer shall notify the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~], ***Education*** Cabinet***,***[~~ for~~

~~Workforce Development~~] which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salary shall not be subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section. For tax purposes they shall be the income of the prisoner.

(4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail, for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages, not to exceed forty dollars ($40) per day, but not less than twelve dollars ($12) per day, established by the fiscal court of a county or the urban-county council if an urban-county government. If he defaults, his privilege under this section shall be automatically forfeited. All moneys shall be paid directly to the jailer and paid to the county treasury for use on the jail as provided in KRS 441.206. The fiscal court of a county or the urban-county council if an urban-county government may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that the costs be repaid by the prisoner.

(5) The sentencing court may order the defendant's employer to deduct from the defendant's wages or salary payments for the following purposes:

  (a) The board of the prisoner and transportation costs incurred by the county;

  (b) Support of the prisoner's dependents, if any;

  (c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

  (d) The balance, if any, to the prisoner upon his discharge.

(6) The sentencing court shall not direct that any payment authorized under this section be paid through the circuit clerk.

(7) The Department of Corrections shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the Department of Corrections shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

Section 174. KRS 533.210 is amended to read as follows:

(1) The program described in KRS 533.200 shall be administered by the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] within the ***Council on Postsecondary Education***[~~Cabinet for Workforce Development~~] which shall promulgate administrative regulations, pursuant to KRS Chapter 13A, relative to the conduct of the program including, but not limited to, the costs of participation in the program by persons sentenced to the program.

(2) The ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy within the Cabinet for Workforce Development~~] shall license qualified persons or organizations to conduct the program described in KRS 533.200 on behalf of the agency. Qualifications, the manner of licensing, and all other matters shall be set by administrative regulation.

Section 175. KRS 151B.400 is repealed and reenacted as a new section of KRS Chapter 164, to read as follows:

The General Assembly of the Commonwealth of Kentucky finds and declares that:

(1) The economic future of the Commonwealth and the prosperity of its citizens depend on the ability of Kentucky businesses to compete effectively in the world economy;

(2) A well-educated and highly trained workforce provides businesses in the Commonwealth with the competitive edge critical for their success; and

(3) Too many adult Kentuckians are not full participants in the labor pool because they lack a high school diploma, its equivalent, or the workplace knowledge necessary to assure self-sufficiency for themselves and their families.

Section 176. 151B.405 is repealed and reenacted as a new section of KRS Chapter 164, to read as follows:

As used in KRS 151B.400 to 151B.410, unless the context indicates otherwise:

(1) "Adult education" means for programs funded under the Federal Workforce Investment Act of 1998, services or instruction below the postsecondary level for individuals:

  (a) Who have attained the age of sixteen (16) years of age;

  (b) Who are not enrolled or required to be enrolled in secondary school under state law; and

  (c) Who:

    1. Lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

    2. Are unable to speak, read, or write the English language; or

3. Do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education;

(2) "Family literacy services" means services that are of sufficient intensity in terms of hours, and of sufficient duration, to assist a family to make sustainable increases in its literacy level, and integrate the activities described in KRS 158.360; and

(3) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential.

Section 177. The following KRS sections are repealed:

12.401 Office of Early Childhood Development.

151B.023 Department for Adult Education and Literacy.

151B.260 Department for Training and Reemployment -- Appointment of commissioner.

156.120 Superintendent of Public Instruction -- Location of office -- Traveling expenses -- Salary.

156.666 Council for Education Technology -- Membership -- Duties.

163.475 Legislative findings and provisions relating to transition of operation of Kentucky Industries for the Blind.

200.711 Early Childhood Professional Development Council.

Section 178. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 179. Any provisions of law to the contrary notwithstanding, the General Assembly confirms the Governor's Executive Order 2004-725 dated July 9, 2004 as it relates to the Education Cabinet.

SB 47 was read for the first time by title and sponsor only and placed in the Calendar.

SB 47 is as follows:

SB 47, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health ***and Family*** Services[~~, the Cabinet for Families and Children~~], the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 11.182 is amended to read as follows:

(1) The membership of the commission shall consist of ***forty-seven (47)***[~~forty-eight (48)~~] members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under KRS 11.180(1).

(a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Tourism Development Cabinet;[~~ secretary of the Cabinet for Families and Children;~~] secretary of the Cabinet for Health ***and Family*** Services; secretary of the Cabinet for Workforce Development; secretary of the Education, Arts, and Humanities Cabinet; commissioner of the Department of Agriculture; president of the Council on Postsecondary Education; president of the Kentucky Community and Technical College System; commissioner of the Department of Education; commissioner of the Department for Local Government; executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the

University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development; state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.

(b) Members appointed by the Governor shall be:

1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and member of the state's judicial branch, all of whom shall be currently serving in the Appalachian region of the Commonwealth. The members who are a representative, a senator, and a representative of the judicial branch shall serve in a nonvoting capacity;

2. Nine (9) at-large members; and

3. One (1) member representing the Community Action Agencies of Appalachian Kentucky.

(c) Members appointed by and representing certain entities shall be: two (2) members of the Kentucky Appalachian Advisory Council; one (1) member of the University of Kentucky Office of Management and Budget; one (1) member from the Christian Appalachian Project; one (1) member appointed by the United States Representative from the Fifth Congressional District; and one (1) member appointed by the East Kentucky Leadership Foundation's board of directors.

(2) Members listed in subsection (1)(a) and (b)1. of this section shall serve during their terms of office or appointment. Members listed in subsection (1)(b)2., (1)(b)3., and (1)(c) of this section shall serve four (4) year staggered terms and may be reappointed.

(3) Members of the commission who are not state employees shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.

(4) Each member of the commission may designate in writing over his signature an alternate with full authority, in the absence of the designating member for any reason, to attend any properly convened meeting of the commission and to participate in the consideration of any business and transactions of the commission. Any designation of an alternate may, in the discretion of the designating member, be limited to be effective only for a designated meeting or only for specified business. An alternate shall not be entitled to vote upon any business or transactions of the commission.

Section 3. KRS 11.501 is amended to read as follows:

The General Assembly finds and declares that:

(1) The establishment of the position of the Chief Information Officer as the Commonwealth's single point of contact and spokesperson for all matters related to information technology and resources, including policies, standard setting, deployment, strategic and tactical planning, acquisition, management, and operations is necessary and in keeping with the industry trends of the private and public sectors;

(2) The appropriate use of information technology by the Commonwealth can improve operational productivity, reduce the cost of government, enhance service to customers, and make government more accessible to the public;

(3) Government-wide planning, investment, protection, and direction for information resources must be enacted to:

(a) Ensure the effective application of information technology on state business operations;

(b) Ensure the quality, security, and integrity of state business operations; and

(c) Provide privacy to the citizens of the Commonwealth;

(4) The Commonwealth must provide information technology infrastructure, technical directions, and a proficient organizational management structure to facilitate the productive application of information technology and resources to accomplish programmatic missions and business goals;

(5) Oversight of large scale and government statewide systems or projects is necessary to protect the Commonwealth's investment and to ensure appropriate integration with existing or planned systems;

(6) A career development plan and professional development program for information technology staff of the executive branch is needed to provide key competencies and adequate on-going support for the information resources of the Commonwealth and to ensure that the information technology staff will be managed as a Commonwealth resource;

(7) The Commonwealth is in need of information technology advisory capacities to the Governor and the agencies of the executive cabinet;

(8) Appropriate public-private partnerships to supplement existing resources must be developed as a strategy for the Commonwealth to comprehensively meet its spectrum of information technology and resource needs;

(9) Technological and theoretical advances in information use are recent in origin, immense in scope and complexity, and change at a rapid rate, which presents Kentucky with the opportunity to provide higher quality, more timely, and more cost-effective government services to ensure standardization, interoperability, and interconnectivity;

(10) The sharing of information resources and technologies among executive branch state agencies is the most cost-effective method of providing the highest quality and most timely government services that would otherwise be cost-prohibitive;

(11) The ability to identify, develop, and implement changes in a rapidly moving field demands the development of mechanisms to provide for the research and development of technologies that address systems, uses, and applications; and

(12) The exercise by the chief information officer of powers and authority conferred by KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and ***Section 32 of this Act***~~[194B.102]~~ shall be deemed and held to be the performance of essential governmental functions.

Section 4. KRS 11.507 is amended to read as follows:

(1) The roles and duties of the Governor's Office for Technology shall include but not be limited to:

(a) Providing technical support and services to all executive agencies of state government in the application of information technology;

(b) Assuring compatibility and connectivity of Kentucky's information systems;

(c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;

(d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture, including implementing necessary management processes to assure full compliance with those directions, standards, and architecture. This specifically includes, but is not limited to, directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies;

(e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;

(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;

(g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;

(h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The chief information officer is authorized to grant or withhold approval to initiate these projects;

(i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;

(j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;

(m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;

(n) Providing staff support and technical assistance to the Geographic Information Advisory Council, the Kentucky Information Technology Advisory Council, and the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky; and

(o) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.

(2) The Governor's Office for Technology may:

(a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the chief information officer finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;

(b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and ***Section 32 of this Act***~~[194B.102]~~;

(c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;

(d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and ***Section 32 of this Act***~~[194B.102]~~;

(e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;

(f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the Governor's Office for Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable; and

(g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:

1. New and emerging technologies as approved by the chief information officer or her or his designee; or

2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.

(3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

Section 5. KRS 11.509 is amended to read as follows:

(1) To accomplish the work of the Governor's Office for Technology, all organizational units and administrative bodies, as defined in KRS 12.010, and all members of the state postsecondary education system, as defined in KRS 164.001, shall furnish the Governor's Office for Technology necessary assistance, resources, information, records, and advice as required.

(2) The provisions of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and ***Section 32 of this Act***[~~194B.102~~] shall not be construed to grant any authority over the judicial or legislative branches of state government, or agencies thereof, to the Governor's Office for Technology.

(3) The information, technology, personnel, agency resources, and confidential records of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System shall be excluded from the provisions of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and ***Section 32 of this Act***[~~194B.102~~] and shall not be under the authority of the Governor's Office for Technology.

Section 6. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of ***twenty-five (25)***[~~twenty six (26)~~] members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;

2. The ***secretary***[~~secretaries~~] of the Cabinet for Health ***and Family*** Services[~~ and of the Cabinet for Families and Children~~] or ***his or her designee***[~~their designees~~];

3. The director of the Kentucky Geological Survey or his designee;

4. The secretary of the Revenue Cabinet or his designee;

5. The chief information officer or her or his designee;

6. The secretary of the Economic Development Cabinet or his designee;

7. The commissioner of the Department for Local Government or his designee;

8. The secretary of the Justice Cabinet or his designee;

9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;

10. The adjutant general of the Department of Military Affairs or his designee;

11. The commissioner of the Department of Education or his designee;

12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;

13. The Commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Development Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 7. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Operations and Development Office.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.
    (o) Board of Directors for the Center for School Safety.
  3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.
(h) Office of Inspector General.

4. Transportation Cabinet:
(a) Department of Highways.
  1. Office of Program Planning and Management.
  2. Office of Project Development.
  3. Office of Construction and Operations.
  4. Office of Intermodal Programs.
  5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.
(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.

6. Environmental and Public Protection Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Horse Racing Authority.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.

(l) Office of Petroleum Storage Tank Environmental Assurance Fund.

(m) Department of Charitable Gaming.

(n) Mine Safety Review Commission.

7.[~~Cabinet for Families and Children:~~

~~(a) Department for Community Based Services.~~

~~(b) Department for Disability Determination Services.~~

~~(c) Public Assistance Appeals Board.~~

~~(d) Office of the Secretary.~~

~~(1) Kentucky Commission on Community Volunteerism and Service.~~

~~(e) Office of the General Counsel.~~

~~(f) Office of Program Support.~~

~~(g) Office of Family Resource and Youth Services Centers.~~

~~(h) Office of Technology Services.~~

~~(i) Office of the Ombudsman.~~

~~(j) Office of Human Resource Management.~~

~~8.~~] Cabinet for Health ***and Family*** Services.

(a) Department for Public Health.

(b) Department for Medicaid Services.

(c) Department for Mental Health and Mental Retardation Services.

(d) Kentucky Commission ***for***[~~on~~] Children with Special Health Care Needs.

(e) Office of Certificate of Need.

(f) Office of the Secretary.

(g) Office of ***Legal Services***[~~the General Counsel~~].

(h) Office of[~~ the~~] Inspector General.

(i) Office of ***Legislative and Public Affairs***[~~Aging Services~~].

(j) Department for Community Based Services.

(k) Department for Disability Determination Services.

(l) Office of the Ombudsman.

(m) Department for Human Support Services.

(n) Kentucky Commission on Community Volunteerism and Service.

(o) Office of Fiscal Services.

(p) Office of Human Resource Management.

(q) Office of Technology.

(r) Office of Contract Oversight.

8.[~~9.~~] Finance and Administration Cabinet:

(a) Office of Financial Management.

(b) Office of the Controller.

(c) Department for Administration.

(d) Department of Facilities Management.

(e) State Property and Buildings Commission.

(f) Kentucky Pollution Abatement Authority.

(g) Kentucky Savings Bond Authority.

(h) Deferred Compensation Systems.

(i) Office of Equal Employment Opportunity Contract Compliance.

(j) Office of Capital Plaza Operations.

(k) County Officials Compensation Board.

(l) Kentucky Employees Retirement Systems.

(m) Commonwealth Credit Union.

(n) State Investment Commission.

(o) Kentucky Housing Corporation.
(p) Governmental Services Center.
(q) Kentucky Local Correctional Facilities Construction Authority.
(r) Kentucky Turnpike Authority.
(s) Historic Properties Advisory Commission.
(t) Kentucky Tobacco Settlement Trust Corporation.
(u) Eastern Kentucky Exposition Center Corporation.
(v) State Board for Proprietary Education.

9.[~~10.~~] Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.

10.[~~11.~~] Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

11.[~~12.~~] Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.

12.[~~13.~~] Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.

(g) The Foundation for Adult Education.

(h) Department for Training and Reemployment.

(i) Office of General Counsel.

(j) Office of Communication Services.

(k) Office of Workforce Partnerships.

(l) Office of Workforce Analysis and Research.

(m) Office of Budget and Administrative Services.

(n) Office of Technology Services.

(o) Office of Quality and Human Resources.

(p) Unemployment Insurance Commission.

13.[~~14.~~] Personnel Cabinet:

(a) Office of Administrative and Legal Services.

(b) Department for Personnel Administration.

(c) Department for Employee Relations.

(d) Kentucky Public Employees Deferred Compensation Authority.

(e) Kentucky Kare.

(f) Division of Performance Management.

(g) Division of Employee Records.

(h) Division of Staffing Services.

(i) Division of Classification and Compensation.

(j) Division of Employee Benefits.

(k) Division of Communications and Recognition.

(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Council on Postsecondary Education.

3. Department for Local Government.

4. Kentucky Commission on Human Rights.

5. Kentucky Commission on Women.

6. Department of Veterans' Affairs.

7. Kentucky Commission on Military Affairs.

8. The Governor's Office for Technology.

9. Commission on Small Business Advocacy.

10. Education Professional Standards Board.

Section 8. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;

(2) Department of Military Affairs;

(3) Department for Local Government;

(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;

(6) Kentucky Commission on Military Affairs;

(7) Kentucky Coal Council;

(8)[~~Governor's Office of Child Abuse and Domestic Violence Services;~~

~~(9)~~] Governor's Office for Technology;

(9)[~~(10)~~] Office of Coal Marketing and Export;

(10)[~~(11)~~] Agricultural Development Board;

(11)[~~(12)~~] Commission on Small Business Advocacy;

(12)[~~(13)~~] Office of Early Childhood Development;
(13)[~~(14)~~] Kentucky Agency for Substance Abuse Policy;
(14)[~~(15)~~] Education Professional Standards Board; and
(15)[~~(16)~~] Kentucky Agricultural Finance Corporation.

Section 9. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6) Public Protection and Regulation Cabinet.
(7) Cabinet for Health ***and Family*** Services.
(8)[~~Cabinet for Families and Children.~~
~~(9)~~] Finance and Administration Cabinet.
(9)[~~(10)~~] Tourism Development Cabinet.
(10)[~~(11)~~] Revenue Cabinet.
(11)[~~(12)~~] Labor Cabinet.
(12)[~~(13)~~] Cabinet for Workforce Development.
(13)[~~(14)~~] Personnel Cabinet.

Section 10. KRS 12.330 is amended to read as follows:

(1) As used in KRS 12.330 to 12.334, "KY-ASAP" means the Kentucky Agency for Substance Abuse Policy.

(2) The Kentucky Agency for Substance Abuse Policy is created and attached for administrative purposes to the Office of the Governor. KY-ASAP shall be headed by an executive director with experience in overseeing programs involving tobacco and substance abuse and shall have other staff as necessary to conduct its affairs.

(3) KY-ASAP shall administer an endowment from interest generated through funds appropriated or gifts, donations, or funds received from any source. KY-ASAP may expend endowment principal, if necessary in its discretion, to carry out the purposes of KRS 12.330 to 12.334. These expenditures from the endowment principal are hereby appropriated for this purpose.

(4) (a) The ***seventeen (17)***[~~eighteen (18)~~] member KY-ASAP Board is created to oversee the activities of KY-ASAP. Membership of the board shall be appointed by the Governor and shall consist of the following:

1. One (1) member representing the Kentucky Family Resource Youth Services Coalition, or a designee;
2. One (1) member representing the Kentucky Health Department Association, or a designee;
3. The secretary of the Cabinet for Health ***and Family*** Services, or designee;
4. The secretary of the Justice Cabinet, or a designee;
5.[~~The secretary of the Cabinet for Families and Children, or a designee;~~
~~6.~~] One (1) member representing the Division of ***Mental Health and*** Substance Abuse ***Services*** within the Department for Mental Health and Mental Retardation Services, Cabinet for Health ***and Family*** Services, or a designee;
6.[~~7.~~] The commissioner of the Department for Public Health, Cabinet for Health ***and Family*** Services, or a designee;
7.[~~8.~~] The commissioner of the Department of Alcoholic Beverage Control, or a designee;
8.[~~9.~~] The commissioner of the Department of Education;
9.[~~10.~~] The director of the Administrative Office of the Courts, or a designee;
10.[~~11.~~] One (1) member representing the Kentucky Association of Regional Programs, or a designee;
11.[~~12.~~] One (1) member representing the Kentucky Heart Association, or a designee;
12.[~~13.~~] One (1) member representing the Kentucky Lung Association, or a designee;
13.[~~14.~~] One (1) member representing the Kentucky Cancer Society, or a designee;
14.[~~15.~~] Two (2) members representing local tobacco addiction and substance abuse advisory and coordination boards; and

__15.__[~~16.~~] Two (2) members representing private community-based organizations, whether for-profit or nonprofit, with experience in programs involving smoking cessation or prevention or alcohol or substance abuse prevention and treatment.

(b) Members shall serve for a term of four (4) years, may be reappointed, and may serve no more than two (2) consecutive terms. Members shall not be compensated but shall receive reimbursement for expenses incurred while performing board business.

(c) The board shall meet at least quarterly. A quorum of ***__nine (9)__***[~~ten (10)~~] members shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.

(d) The board shall:

1. Oversee deposits and expenditures from the endowment;
2. Request, in its discretion, an audit relating to the expenditure of endowment funds;
3. Receive quarterly reports from the executive director regarding KY-ASAP's activities;
4. Progress toward development and implementation of the strategic plan;
5. Recommend to KY-ASAP the most efficient means for using public funds to coordinate, supplement, and support high quality and ongoing programs of all public agencies and private service providers related to smoking cessation and prevention and alcohol and substance abuse prevention and treatment;
6. Recommend matters for review and analysis by KY-ASAP; and
7. Perform other duties as necessary for the oversight of KY-ASAP.

(5) KY-ASAP shall promote the implementation of research-based strategies that target Kentucky's youth and adult populations.

(6) KY-ASAP shall vigorously pursue the philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem because of the addictive qualities of nicotine, and because tobacco is the most prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

Section 11. KRS 12.332 is amended to read as follows:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. KY-ASAP shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) Observe programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health ***__and Family__*** Services,[~~ the Cabinet for Families and Children,~~] the Department of Agriculture, the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education, Arts, and Humanities Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and

treatment;

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) Promulgate any administrative regulations necessary to implement KRS 12.330 to 12.334; and

(20) Report to the Legislative Research Commission and Governor by October 1, 2000, regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 12. KRS 12.350 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

The ***Division***[~~Governor's Office~~] of Child Abuse and Domestic Violence Services is hereby created and established within the ***Cabinet for Health and Family Services***[~~Office of the Governor~~]. The office shall be headed by ***a***[~~an executive~~] director, who shall be appointed by the ***secretary***[~~Governor pursuant to KRS 11.040 and shall serve at the pleasure of and under the direction of the Governor~~].

(1) The ***division's***[~~office's~~] duties, rights, and responsibilities shall include, but not be limited to, the following:

  (a) Provide coordinative functions so that no services funded or provided by state government agencies are duplicative so as to ensure the greatest efficiency in the use of resources and funding, and to ensure that a consistent philosophy underlies all efforts undertaken by the administration in initiatives related to child abuse, domestic violence, and rape or sexual assault.

  (b) Coordinate the legislative efforts of the administration related to child abuse, domestic violence and rape or sexual assault which shall include drafting legislative proposals and providing input to the ***secretary***[~~Governor~~] on the impact of legislation proposed by other agencies and government branches.

  (c) Provide training and consultation to programs provided or funded by the state which provide services to victims of child abuse, domestic violence, rape or sexual assault, and other crimes.

  (d) In conjunction with staff from the Justice Cabinet and ***other staff within***[~~the Cabinet for Families and Children and~~] the Cabinet for Health ***and Family*** Services, and with input from direct service providers throughout Kentucky, develop standards of care for victim and offender services provided or funded by the state.

  (e) Design and implement research programs which attend to the quality of victim-related services.

  (f) Provide consultation on the development of budgets for the rape crisis, child abuse, and domestic violence programs funded by the state.

  (g) Provide recommendations to the Governor and to the Secretaries of the Justice Cabinet and[~~ the Cabinet for Families and Children and~~] the Cabinet for Health ***and Family*** Services, related to the improvement and expansion of victim services provided or funded by these agencies.

  (h) Undertake new and progressive initiatives to improve and enhance the delivery of services to victims of child abuse, domestic violence, and rape or sexual assault.

(2) The[~~ Executive~~] director may, at the request of the Governor or any secretary, serve as a designee on boards, commissions, task forces or other committees addressing child abuse, domestic violence and rape or sexual assault.

[~~(3) The First Lady of the Commonwealth shall serve as special advisor to the office.~~]

Section 13. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) Cabinet for Health ***and Family*** Services

1. Office of Certificate of Need

a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B

b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

[~~(c) Cabinet for Families and Children~~]

2.[~~1.~~] Department for Community Based Services

a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630

3.[~~2.~~] Department for Disability Determination Services

a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(c)[~~(d)~~]Justice Cabinet

1. Department of State Police

a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

2. Department of Corrections

a. Parole Board hearings conducted under authority of KRS Chapter 439

b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197

3. Department of Juvenile Justice

a. Supervised placement revocation hearings conducted under KRS Chapter 635

(d)[~~(e)~~]Labor Cabinet

1. Department of Workers' Claims
    a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(e)[~~(f)~~] Natural Resources and Environmental Protection Cabinet

1. Department for Surface Mining Reclamation and Enforcement
    a. Surface mining hearings conducted under authority of KRS Chapter 350
2. Department for Environmental Protection
    a. Wild River hearings conducted under authority of KRS Chapter 146
    b. Water resources hearings conducted under authority of KRS Chapter 151
    c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
    d. Environmental protection hearings conducted under authority of KRS Chapter 224

(f)[~~(g)~~] Kentucky Occupational Safety and Health Review Commission

1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(g)[~~(h)~~] Public Protection and Regulation Cabinet

1. Board of Claims
    a. Liability hearings conducted under authority of KRS Chapter 44
2. Public Service Commission
    a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(h)[~~(i)~~] Cabinet for Workforce Development

1. Department for Employment Services
    a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(i)[~~(j)~~] Secretary of State

1. Registry of Election Finance
    a. Campaign finance hearings conducted under authority of KRS Chapter 121

(j)[~~(k)~~] State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
3. Campus residency hearings conducted under authority of KRS Chapter 164
4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 14. KRS 17.125 is amended to read as follows:

(1) The following agencies shall, subject to restrictions imposed by state or federal law, disclose and share with each other all

information they maintain on a juvenile in a facility or program or informal adjustment authorized by law:

(a) All sheriff's offices, police departments, and any other law enforcement agency;

(b) All Commonwealth's attorneys and county attorneys;

(c) The Attorney General;

(d) All jails and juvenile detention facilities, public and private;

(e) All courts and clerks of courts;

(f) The Administrative Office of the Courts;

(g) All departments within the Justice Cabinet; and

(h) All departments within[~~ the Cabinet for Families and Children and~~] the Cabinet for Health ***and Family*** Services.

(2) Except as provided in this section, all information shared by agencies specified above shall be subject to applicable confidentiality disclosure, redisclosure, and access restrictions imposed by federal or state law.

(3) All public or private elementary or secondary schools, vocational or business schools, or institutions of higher education shall provide all records specifically requested in writing, and pertaining to status offenders, public offenders, youthful offenders, juveniles remanded to detention, and any juvenile convicted by a court, to any of the agencies listed in subsection (1) of this section. The records or information provided pursuant to this subsection shall be subject to:

(a) Access or other restrictions imposed by federal or state law;

(b) All confidentiality restrictions imposed by federal or state law; and

(c) All disclosure and redisclosure restrictions imposed by federal or state law.

(4) Any request for records, the provision of records, the sharing of records, the disclosure of records, or the redisclosure of records shall be done for official purposes only, on a bona fide need to know basis, and only in connection with a legitimate investigation, prosecution, treatment program, or educational program.

(5) Information and records relating to pending litigation in Circuit Court, District Court, or a federal court and information and records relating to an ongoing investigation are not subject to disclosure or sharing under this section.

(6) Obtaining or attempting to obtain a record relating to a minor or by sharing or attempting to share a record relating to a minor with an unauthorized person is a violation of this section.

Section 15. KRS 17.150 is amended to read as follows:

(1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital, or institution for the retarded; State Police, state fire marshal, Board of Alcoholic Beverage Control; Cabinet for Health ***and Family*** Services;[~~ Cabinet for Families and Children;~~] Transportation Cabinet; Department of Corrections; Department of Juvenile Justice; and every other person or criminal justice agency, except the Court of Justice, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:

(a) Install and maintain records needed for reporting data required by the cabinet;

(b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal the juvenile's or the juvenile's parents' identity;

(c) Give the cabinet or its accredited agent access for purpose of inspection; and

(d) Cooperate with the cabinet to the end that its duties may be properly performed.

(2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:

(a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;

(b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;

(c) Information which may endanger the life or physical safety of law enforcement personnel; or

(d) Information contained in the records to be used in a prospective law enforcement action.

(3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.

(4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision, and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding

related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

(5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.

(6) The secretary of justice shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of State Police.

(7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice.

Section 16. KRS 61.8715 is amended to read as follows:

The General Assembly finds an essential relationship between the intent of this chapter and that of KRS 171.410 to 171.740, dealing with the management of public records, and of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and ***Section 32 of this Act***[~~194B.102~~], dealing with the coordination of strategic planning for computerized information systems in state government; and that to ensure the efficient administration of government and to provide accountability of government activities, public agencies are required to manage and maintain their records according to the requirements of these statutes. The General Assembly further recognizes that while all government agency records are public records for the purpose of their management, not all these records are required to be open to public access, as defined in this chapter, some being exempt under KRS 61.878.

Section 17. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor, Lieutenant Governor, and the Superintendent of Public Instruction, the heads of departments and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education, arts, and humanities	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for ***public*** health[~~ services~~]	10,000
Secretary of labor	5,000
Commissioner of surface mining reclamation and enforcement	50,000
State librarian	5,000
Commissioner of mines and minerals	5,000
Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for natural resources and environmental protection	10,000

Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health ***and family*** services	20,000
[~~Secretary for families and children~~	~~20,000~~]
Commissioner for environmental protection	10,000
Secretary for public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 18. KRS 62.170 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position form, to cover all other officers, employees, or deputies of the Commonwealth of Kentucky, including all judges, clerks, and employees of the Court of Justice, including all other members of boards or commissions or employees of those boards or commissions, and including all superintendents, receivers, or employees of penal or eleemosynary institutions managed or directed by the Justice Cabinet, the Cabinet for Health ***and Family*** Services,[~~ the Cabinet for Families and Children,~~] or any other department or agency of the Commonwealth of Kentucky. Nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency, or institutional basis.

(2) The secretary of the Finance and Administration Cabinet may secure one (1) or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he may deem necessary by the exposures indicated in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Personnel Cabinet and, for Court of Justice officers and personnel, by the Administrative Office of the Courts and in accordance with the amounts of money and property handled by the respective officers and employees.

(3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the Department of Insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. The bonds may be written with or without cosureties. Further, the bonds are to be a percentage of the total risks, the Department of Insurance to approve the amount of the risk written by any one (1) company.

(4) The penal amount of the bond secured pursuant to this section shall be fixed by the secretary of the Finance and Administration Cabinet in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Personnel Cabinet and, for Court of Justice officers and personnel, by the Administrative Office of the Courts, and in accordance with the amounts of money and property handled by the respective officers and employees.

Section 19. KRS 96A.095 is amended to read as follows:

(1) The Transportation Cabinet may receive and accept from the Commonwealth or any of its agencies, including[~~ the Cabinet for Families and Children,~~] the Cabinet for Health ***and Family*** Services[~~,~~] and the Cabinet for Workforce Development, and from federal agencies appropriations or grants to promote, develop, and provide capital and operating subsidies for mass transit services and human service transportation delivery in Kentucky, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value to promote mass transit services. Subject to the provisions of Section 230 of the Constitution of the Commonwealth of Kentucky, any of these funds, property, or things of value received by the Transportation Cabinet may be given directly to any of the following entities in order to accomplish the purposes of this section:

(a) A local transit authority as created under this chapter;

(b) A city;

(c) A county;

(d) Other public mass transit providers;

(e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or

(f) An entity providing human service transportation delivery.

(2) The Transportation Cabinet is authorized and directed to apply for any available federal funds for operating subsidies,

either on a matching basis or otherwise and to make any of these funds received available to any of the following entities in order to accomplish the purposes of this section:

(a) A local transit authority as created under this chapter;

(b) A city;

(c) A county;

(d) Other public mass transit providers;

(e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or

(f) An entity promoting or providing transit services such as safety, planning, research, coordination, or training activities.

In those cases where federal laws or regulations preclude the Transportation Cabinet from direct application for this type of federal funds, the cabinet is authorized and directed to provide assistance to any of the entities listed in this subsection as necessary to enable it to apply for and obtain this type of federal funds in order to accomplish the purposes of this section.

(3) The Transportation Cabinet is authorized to assist cities and counties in the formation of local transit authorities in conformance with this chapter, but nothing in this chapter shall be construed as preventing the Transportation Cabinet from providing assistance as authorized in this chapter to cities or counties where local transit authorities do not exist.

(4) The Transportation Cabinet is authorized to contract, in accordance with the provisions of KRS Chapters 45A and 281, with a broker to provide human service transportation delivery within a specific delivery area.

Section 20. KRS 142.301 is amended to read as follows:

As used in KRS 142.301 to 142.359:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Charitable provider" means any provider which does not charge its patients for health-care items or services, and which does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government. The collaboration with public hospitals, agencies, or other providers in the delivery of patient care; affiliation with public institutions to provide health-care education; or the pursuit of research in cooperation with public institutions or agencies shall not be considered as the receipt of government support by a charitable provider;

(3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration or use by a patient or other individual entitled to receive the prescription drug;

(4) "Entity" means any firm, partnership, joint venture, association, corporation, company, joint stock association, trust, business trust, syndicate, cooperative, or other group or combination acting as a unit;

(5) "Gross revenues" means the total amount received in money or otherwise by a provider for the provision of health-care items or services in Kentucky, less the following:

(a) Amounts received by any provider as an employee or independent contractor from another provider for the provision of health-care items or services if:

1. The employing or contracting provider receives revenue attributable to health-care items or services provided by the employee or independent contractor receiving payment; and

2. The employing or contracting provider is subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 on the receipt of that revenue;

(b) Amounts received as a grant or donation by any provider from federal, state, or local government or from an organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code for:

1. Research; or

2. Administrative or operating costs associated with the implementation and operation of an experimental program;

(c) Salaries or wages received by an individual provider as an employee of a charitable provider, the federal government, or any state or local governmental entity;

(d) Salaries or wages received by an individual provider as an employee of a public university for the provision of services at a student health facility; and

(e) Amounts received by an HMO on a fixed, prepayment basis as premium payments.

(6) "Health-care items or services" means:

(a) Inpatient hospital services;

(b) Outpatient hospital services;

(c) Nursing-facility services;

(d) Services of intermediate-care facilities for the mentally retarded;

(e) Physicians' services provided prior to July 1, 1999;

(f) Licensed home-health-care-agency services;

(g) Outpatient prescription drugs; and

(h) HMO services;

(7) "Health-maintenance organization" or "HMO" means an organization established and operated pursuant to the provisions of Subtitle 38 of KRS Chapter 304;

(8) "Hospital" means an acute-care, rehabilitation, or psychiatric hospital licensed under KRS Chapter 216B;

(9) "Hospital services" means all inpatient and outpatient services provided by a hospital. "Hospital services" does not include services provided by a noncontracted, university-operated hospital, or any freestanding psychiatric hospital, if necessary waivers are obtained by the Cabinet for Human Resources***, Cabinet for Health Services, or Cabinet for Health and Family Services*** from the Health Care Financing Administration ***or Centers for Medicare and Medicaid Services***, or hospitals operated by the federal government;

(10) "Health ***and family*** services secretary" means the secretary of the Cabinet for Health ***and Family*** Services or that person's authorized representative;

(11) "Inpatient hospital services," "outpatient hospital services," "intermediate-care-facility services for the mentally retarded," "physician services," "licensed home-health-care-agency services," and "outpatient prescription drugs" have the same meaning as set forth in regulations promulgated by the Secretary of the Department of Health and Human Services and codified at 42 C.F.R. pt. 440, as in effect on December 31, 1993;

(12) "Medicaid" means the state program of medical assistance as administered by the Cabinet for Health ***and Family*** Services in compliance with 42 U.S.C. sec. 1396;

(13) "Nursing-facility services" means services provided by a licensed skilled-care facility, nursing facility, nursing home, or intermediate-care facility, excluding intermediate-care facilities for the mentally retarded;

(14) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit and the legal successor thereof;

(15) "Provider" means any person receiving gross revenues for the provision of health-care items or services in Kentucky, excluding any facility operated by the federal government; and

(16) "Secretary" means the secretary of the Revenue Cabinet or that person's authorized representative.

Section 21. KRS 142.307 is amended to read as follows:

A tax is hereby imposed at a rate of two percent (2%) on gross revenues received by each provider on or after July 15, 1994, for the provision of nursing-facility services, intermediate-care-facility services for the mentally retarded, licensed home-health-care services, and HMO services. The tax imposed by this section shall apply to freestanding psychiatric hospitals if necessary waivers are obtained by the ***Cabinet for Human Resources,*** Cabinet for Health Services***, or Cabinet for Health and Family Services*** from the Health Care Financing Administration ***or Centers for Medicare and Medicaid Services***. The tax imposed by this section shall not apply to gross revenues received for dispensing outpatient prescription drugs subject to tax under KRS 142.311.

Section 22. KRS 154.12-203 is amended to read as follows:

(1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.

(2) It shall be the purpose of the Kentucky Commission on Military Affairs to:

(a) Address matters of military significance to Kentucky;

(b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;

(c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;

(d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;

(e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;

(f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;

(g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;

(h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky;

(i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and

(j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.

(3) The Kentucky Commission on Military Affairs shall consist of:

(a) The Governor, or his designated representative;

(b) The secretary of the Cabinet for Economic Development, or his designated representative;

(c) The adjutant general of the Commonwealth, or his designated representative;

(d) The executive director of the Kentucky Long-Term Policy Research Center, or his designated representative;

(e) The secretaries of the following cabinets, or their designees:

1. Finance and Administration;
2.[~~ Families and Children;~~
~~3.~~] Justice;
3.[~~4.~~] Natural Resources and Environmental Protection;
4.[~~5.~~] Transportation;
5.[~~6.~~] Workforce Development;
6.[~~7.~~] Education, Arts, and Humanities;
7.[~~8.~~] Health ***and Family*** Services;
8.[~~9.~~] Revenue; and
9.[~~10.~~] Labor;

(f) The Attorney General, or his designee;

(g) The commissioner of the Department of Veterans' Affairs or a designee;

(h) The executive director of the Kentucky Commission on Military Affairs or a designee;

(i) Kentucky's Civilian Aide to the Secretary of the United States Army;

(j) Two (2) members of the Kentucky General Assembly, with experience in or an interest in military and defense-related issues, one (1) member to be appointed by the President of the Senate, and one (1) member to be appointed by the Speaker of the House;

(k) The commander or the designee of the commander of each of the following as nonvoting, ex officio members:

1. Fort Campbell;
2. Fort Knox;
3. United States Army Recruiting Command;
4. Bluegrass Army Depot;
5. Louisville District of the United States Army Corps of Engineers;
6. The One Hundredth Training Division;
7. Technology Park of Greater Louisville; and
8. Any other installation or organization, including but not limited to the United States Coast Guard, Air Force, Navy, and Marine Corps, with a military mission in the Commonwealth; and

(l) Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.

(4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.

(5) (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee.

(b) The chair and vice chair of the commission shall also serve as chair and vice chair of the executive committee.

(c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.

(6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.

(9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.

(10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.

(11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 23. KRS 163.506 is amended to read as follows:

(1) The Commission on the Deaf and Hard of Hearing shall consist of:

(a) Seven (7) members appointed by the Governor as follows:

1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;

2. Three (3) hard of hearing or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;

3. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;

4. One (1) hard of hearing or deaf person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term; and

5. One (1) deaf, late-deafened, or hard of hearing person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;

(b) One (1) representative of the Cabinet for Health ***and Family*** Services appointed by the secretary;

(c)[~~ One (1) representative of the Cabinet for Families and Children appointed by the secretary;~~

~~(d)~~] The secretary of the Education, Arts, and Humanities Cabinet or his designee;

(d)[~~(e)~~]The president of the Kentucky Association for the Deaf or his designee;

(e)[~~(f)~~] The president of the Kentucky Registry of Interpreters for the Deaf or his designee; and

(f)[~~(g)~~] Three (3) persons appointed by the Commission on the Deaf and Hard of Hearing as constituted in subsections (1)(a) through (1)***(e)***[~~(f)~~] of this section, appointed as follows:

1. One (1) parent of a hard of hearing or deaf child;

2. One (1) representative of a public or private organization providing consistent services to the deaf and hard of hearing; and

3. One (1) member at large.

(2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsection (1)(a)2. through (1)(a)5. and subsection (1)***(f)***[~~(g)~~] of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.

(3) Each member of the commission shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

Section 24. KRS 194A.010 is amended to read as follows:

(1) The cabinet is the primary state agency for operating the public health, Medicaid, certificate of need and licensure, and mental health and mental retardation programs in the Commonwealth. The function of the cabinet is to improve the health of all Kentuckians, including the delivery of population, preventive, reparative, and containment health services in a safe and effective fashion, and to improve the functional capabilities and opportunities of Kentuckians with disabilities. The cabinet is to accomplish its function through direct and contract services for planning and through the state health plan and departmental plans for program operations, for program monitoring and standard setting, and for program evaluation and resource management.

(2) The cabinet is the primary state agency responsible for leadership in protecting and promoting the well-being of Kentuckians through the delivery of quality human services. Recognizing that children are the Commonwealth's greatest natural resource and that individuals and their families are the most critical component of a strong society, the cabinet shall deliver social services to promote the safety and security of Kentuckians and preserve their dignity. The cabinet shall promote collaboration and accountability among local, public, and private programs to improve the lives of families and children, including collaboration with the Council on Accreditation for Children and Family Services or its equivalent in developing strategies consistent with best practice standards for delivery of services. The cabinet also shall administer income-supplement programs that protect, develop, preserve, and maintain individuals, families, and children in the Commonwealth.

Section 25. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

(1) Office of the Secretary*. Within the Office of the Secretary, there shall be an Office of Legislative and Public Affairs, an Office of Legal Services, and an Office of Inspector General.*

(a) The Office of Legislative and Public Affairs shall be responsible for the development and implementation of the major legislative and policy initiatives of the cabinet, and shall include oversight of administrative hearings, legislative affairs, and communications with internal and external audiences of the cabinet. The Office of Legislative and Public Affairs shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.

(b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.

(c) The Office of Inspector General shall be responsible for:

1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;

2. Licensing and regulatory functions as the secretary may delegate;

3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235 and KRS 311.241, 311.243, 311.245, and 311.247; and

4. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;

(2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as

delegated by the secretary;

(4) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, ***brain injury, developmental disabilities,*** and ***substance abuse disorders***[~~chemical dependency~~] and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, who have mental retardation, ***brain injury, developmental disability,*** or ***a substance abuse disorder***[~~who are chemically dependent~~]. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(5)[~~Office of the Inspector General. The Office of the Inspector General shall be responsible for:~~

~~(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;~~

~~(b) Licensing and regulatory functions as the secretary may delegate;~~

~~(c) Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235 and KRS 311.241, 311.243, 311.245, and 311.247; and~~

~~(d) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.~~

~~The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;~~

~~(6)~~] Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;

(6)[~~(7)~~] Office of Certificate of Need. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office;

(7)[~~(8)~~] ***Department for Human Support Services. The Department for Human Support Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Aging Services, the Division of Child Abuse and Domestic Violence Services, the Division of Women's Physical and Mental Health, the Division of Family Resource and Youth Services Centers, and the Kentucky Commission on Community Volunteerism and Services. The Department for Human Support Services shall be headed by a commissioner for human support services who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for human support services shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for human support services shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;***

(8) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including but not limited to quality improvement and information analysis and reporting, including contract monitoring, program monitoring, and the development of quality service delivery, and a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies. The Office of the Ombudsman shall place an emphasis on research and best practice and program accountability and shall monitor federal compliance. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;

(9) Office of Technology. The Office of Technology shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The Office of Technology shall be headed by a chief information officer who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The chief information officer shall exercise authority over the Office of Technology under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(10) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(11) Office of Fiscal Services. The Office of Fiscal Services shall coordinate, oversee, and execute the accounting, treasury, and financial reporting functions of the cabinet. The office shall be headed by a chief financial officer appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(12) Office of Contract Oversight. The Office of Contract Oversight shall coordinate, oversee, and execute the contracting and procurement processes of the cabinet and shall maintain these processes in compliance with all applicable laws, rules, regulations, and procedures. The office shall ensure that the cabinet executes its contracting and procurement processes within the highest ethical standards and with the utmost integrity. The office shall oversee existing contracts to assure that the cabinet receives those services for which it has contracted or receives funds in payment for services that it has provided by contract, and shall have responsibility for determining that the cabinet maximizes the value of dollars spent by the cabinet for commodities and services. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(13) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family and child support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and

(14) Department for Disability Determination Services. The Department for Disability Determination Services shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall also make determinations for citizens of the Commonwealth who make application for the Kentucky Transitional Assistance Program and determine medical exemptions for participants in the Kentucky Works Program. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050[~~Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105;~~

~~(9) Office of Aging Services. The Office of Aging Services shall serve as the state unit on aging as required by the Older Americans Act of 1965, as amended, 42 U.S.C. secs. 3001 et seq., including having responsibility for the development of the state plan on aging, advocacy, planning, coordination, information sharing, brokering, reporting and evaluation of contract and service provider agreement implementation. The Office of Aging Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The Office of Aging Services shall also administer grants, programs, and initiatives designed to assist older Kentuckians, administer the long-term care ombudsman program for Kentucky, and provide and coordinate services to persons with Alzheimer's disease and related disorders and their caregivers~~].

Section 26. KRS 194A.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary *may*[~~shall~~] utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations *relating to initiatives of the Department for Public Health*. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority.

(3) *The secretary may utilize the Council for Families and Children to review and make recommendations on contemplated administrative regulations relating to initiatives of the Department for Community Based Services. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless issued under the authority of the secretary, and the secretary shall not delegate this authority.*

(4) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

Section 27. KRS 194A.090 is amended to read as follows:

(1) The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public.

(2) A Public Health Services Advisory Council is created within the cabinet.

(a) The council ***may***[~~shall~~] advise the secretary for health ***and family*** services, the commissioner for public health, and officials of the Commonwealth on policy matters concerning the delivery of health services, including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the cabinet to fulfill federal requirements for citizen's advisory councils associated with programs designed to provide health services and to advise the cabinet on the development and content of the state health plan.

(b) The council shall be composed of no more than nineteen (19) citizen members appointed by the Governor. Six (6) members of the council shall be chosen to broadly represent public interest groups concerned with health services, recipients of health services provided by the Commonwealth, minority groups, and the general public. Thirteen (13) members of the council shall represent providers of health care and not less than one-half (1/2) of the providers shall be direct providers of health care. At least one (1) of the direct providers of health care shall be a person engaged in the administration of a hospital, and one (1) shall be a physician in active practice. At least one (1) member shall be a registered sanitarian or sanitary engineer, one (1) a public health nurse, one (1) a member of the current minority advisory council, and one (1) a practicing public health physician. Nominations for health care provider members of the council shall be solicited from recognized health care provider organizations. Membership of the council shall be geographically distributed in order that area development districts are represented. Members shall serve for terms of three (3) years. If a vacancy occurs, the person appointed as a replacement shall serve only for the remainder of the vacated term. Members shall serve until the term begins for their appointed successors. No member shall serve more than two (2) consecutive terms. The chair of the council shall be appointed by the Governor. The secretary for health ***and family*** services and the commissioner for public health shall be nonvoting, ex officio members of the council, and the commissioner for public health shall be a staff director for, and secretary to, the council. The council shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for health ***and family*** services or the commissioner for public health. A majority of the appointed members shall constitute a quorum.

(3) An Institute for Aging is created within the cabinet.

(a) The institute shall advise the secretary for health ***and family*** services and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged.

(b) The institute shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the institute shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chair of the institute. The secretary for health ***and family*** services shall be a nonvoting, ex officio member of, staff director for, and secretary to the institute. The institute shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for health ***and family*** services. A majority of the appointed members shall constitute a quorum.

(4) A Council for Families and Children is created within the cabinet.

(a) The council may advise the secretary for health and family services, the commissioner for community based services, and other officials of the Commonwealth on policy matters relating to the human service needs.

(b) The council shall be composed of no more than twenty-one (21) citizen members appointed by the Governor. Members of the council shall be chosen to broadly represent public interest groups concerned with social insurance and social service programs operated by the Commonwealth, professionals involved in the delivery of human services, minority groups, the poor, the disadvantaged, recipients of human services provided by the state, and the general public. The Governor shall appoint the chair of the council. The secretary for health and family services and the commissioner for community based services shall be nonvoting, ex officio members of the council, and the commissioner for community based services shall be staff director for, and secretary to, the council. The council shall meet at least quarterly and on other occasions as may be necessary, on call of the secretary for health and family services. A majority of appointed members shall constitute a quorum.

(c) When the Council for Families and Children is assigned a responsibility for qualifying the Commonwealth for federal programs with representations and membership formulas that conflict with the council's membership, the secretary may create special subcommittees to this citizens' body that meet federal requirements.

Section 28. KRS 194A.190 is amended to read as follows:

The Public Health Services Advisory Council***, Council for Families and children,*** and the Advisory Council for Medical Assistance and the Institute for Aging shall be empowered to accept gifts and grants, but all of these moneys shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

Section 29. KRS 194A.200 is amended to read as follows:

The members of the ***Council for Families and Children,*** Public Health Services Advisory Council***,*** and[~~ of~~] the Institute for Aging shall receive no compensation for their services but shall be allowed the necessary expenses incurred through the performance of their duties as members of this citizens' council. No member of a citizens' council shall be held to be a public officer by reason of membership on a council.

Section 30. KRS 194A.505 is amended to read as follows:

(1) No person shall, with intent to defraud, knowingly make a false statement or misrepresentation or by other means fail to disclose a material fact used in determining the person's qualification to receive benefits under any assistance program.

(2) No person shall, with intent to defraud, fail to report a change in the factors affecting the person's eligibility for benefits.

(3) No person shall, with intent to defraud, knowingly use, attempt to use, acquire, transfer, forge, alter, traffic, counterfeit, or possess a medical identification card***, food stamp or food stamp identification card,*** or unique electronic authorization codes or numbers or electronic personal identification numbers in any manner not authorized by law.

(4) No person having responsibility for the administration of an assistance program shall, having knowledge that it is in violation of the law, knowingly aid or abet any person in obtaining benefits to which the person is not legally entitled, or in obtaining a benefit amount greater than that to which the person is fully entitled.

(5) No person shall misappropriate or attempt to misappropriate ***food stamp authorization-to-purchase card, or food stamp identification card, or*** a Medicaid identification card or misappropriate other benefits from any program with which the person has been assigned responsibility, nor shall the person knowingly fail to report any of these activities when it is clearly in violation of the law.

(6) No person shall, with intent to defraud or deceive, devise a scheme or plan a scheme or artifice to obtain benefits from any assistance program by means of false or fraudulent representations or intentionally engage in conduct that advances the scheme or artifice.

(7) No person shall aid and abet another individual in acts prohibited in subsections (1) to (6) of this section knowing it to be in violation of the law.

(8) The Attorney General on behalf of the Commonwealth of Kentucky may commence proceedings to enforce this section, and the Attorney General shall in undertaking these proceedings exercise all powers and perform all duties that a prosecuting attorney would otherwise perform or exercise.

Section 31. KRS 194B.100 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

The Kentucky General Assembly finds that the various departments, agencies, and entities providing care and treatment to children in placement and their families often do so without appropriate collaboration of policies and services or appropriate and necessary sharing of relevant information. The General Assembly declares that the purpose of ***Section 32 of this Act***[~~KRS 194B.102~~] is to establish a structure for coordinated strategic planning, policy development, and information reporting and sharing among and across departments, agencies, and entities that provide care and services to children in placement.

Section 32. KRS 194B.102 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

(1) There is hereby created the "Statewide Strategic Planning Committee for Children in Placement" which is administratively attached to the Department for Community Based Services. The committee shall be composed of the following:

  (a) Members who shall serve by virtue of their positions: the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~] or the secretary's designee, the commissioner of the Department for Public Health, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner for the Department for Medicaid Services, the commissioner of the Department for Community Based Services, the commissioner of the Department of Juvenile Justice, the commissioner of the Department of Education, the executive director of the Administrative Office of the Courts, or their designees; and

  (b) One (1) foster parent selected by the statewide organization for foster parents, one (1) District Judge selected by the Chief Justice of the Kentucky Supreme Court, one (1) parent of a child in placement at the time of appointment to be selected by the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~], one (1) youth in placement at the time of the appointment to be selected by the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~], and one (1) private child care provider selected by the statewide organization for private child care providers. These members shall serve a term of two (2) years, and may be reappointed.

(2) The Statewide Strategic Planning Committee for Children in Placement shall, by July 1, 1999, develop a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. The plan shall be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislative Research Commission on

or before July 1, 1999, and each July 1 thereafter.

(3) The strategic plan shall, at a minimum, include:

  (a) A mission statement;
  (b) Measurable goals;
  (c) Principles;
  (d) Strategies and objectives; and
  (e) Benchmarks.

(4) The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. Strategic plan updates shall include data and statistical information comparing plan benchmarks to actual services and care provided.

(5) The Statewide Strategic Planning Committee for Children in Placement shall, in consultation with the commissioner and the statewide placement coordinator as provided for in KRS 199.801, establish a statewide facilities and services plan that identifies the location of existing facilities and services for children in placement, identifies unmet needs, and develops strategies to meet the needs. The planning horizon shall be five (5) years. The plan shall be updated on an annual basis. The plan shall be used to guide, direct, and, if necessary, restrict the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of placement alternatives.

(6) The Statewide Strategic Planning Committee for Children in Placement may, through the promulgation of administrative regulations, establish a process that results in the review and approval or denial of the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of any facilities and services for children in placement in accordance with the statewide facilities and services plan. Any process established shall include adequate due process rights for individuals and entities seeking to develop new services, construct new facilities, or expand existing facilities, and shall require the involvement of local communities and other resource providers in those communities.

(7) As a part of the statewide strategic plan, and in consultation with the Governor's Office for Technology, the Statewide Strategic Planning Committee for Children in Placement shall plan for the development or integration of information systems that will allow information to be shared across agencies and entities, so that relevant data will follow a child through the system regardless of the entity or agency that is responsible for the child. The data produced shall be used to establish and monitor the benchmarks required by subsection (3) of this section. The data system shall, at a minimum, produce the following information on a monthly basis:

  (a) Number of placements per child;
  (b) Reasons for placement disruptions;
  (c) Length of time between removal and establishment of permanency;
  (d) Reabuse or reoffense rates;
  (e) Fatality rates;
  (f) Injury and hospitalization rates;
  (g) Health care provision rates;
  (h) Educational achievement rates;
  (i) Multiple placement rates;
  (j) Sibling placement rates;
  (k) Ethnicity matching rates;
  (l) Family maintenance and preservation rate; and
  (m) Adoption disruption rates.

(8) The Statewide Strategic Planning Committee for Children in Placement shall publish an annual report no later than December 1 of each year that includes, but is not limited to, the information outlined in subsection (7) of this section.

Section 33. KRS 194B.360 is repealed and reenacted as a new section of KRS Chapter 194A to read as follows:

The cabinet shall make an annual report to the Governor, the General Assembly, and the Chief Justice. The report shall be tendered not later than December 1 of each year and shall include information for the previous fiscal year. The report shall include, but not be limited to, the following information:

(1) The number of children under an order of dependent, status, public, or voluntary commitment to the cabinet, according to: permanency planning goals, current placement, average number of placements, type of commitment, and the average length of time children remain committed to the cabinet;

(2) The number of children in the custody of the cabinet in the following types of residential placements, the average length of stay in these placements, and the average number of placements experienced by these children: family foster homes, private child care facilities, and placement with biological parent or person exercising custodial control or supervision;

(3) The number of children in the custody of the cabinet eligible for adoption, the number placed in an adoptive home, and the

number ineligible for adoption and the reasons therefor;

(4) The cost in federal and state general funds to care for the children defined in subsections (1) and (2) of this section, including the average cost per child for each type of placement, direct social worker services, operating expenses, training, and administrative costs; and

(5) Any other matters relating to the care of foster children that the cabinet deems appropriate and that may promote further understanding of the impediments to providing permanent homes for foster children.

Section 34. KRS 194B.370 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall provide professional development for staff employed by the cabinet or by local public agencies in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each staff person who is employed by the cabinet or by a local public agency and who works with children or with families shall successfully complete the professional development program in order to remain assigned to child or family programs. The cabinet shall specify the manner of professional development and related matters by administrative regulation.

Section 35. KRS 194B.530 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

(1) The secretary for ***health and family services***[~~families and children~~] shall develop an initial training course and continuing education courses for employees of the Department for Community Based Services concerning the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.

(2) Each person employed by the Department for Community Based Services who provides supervisory or direct service at the local, district, or state level shall successfully complete the initial training course and, at least once every two (2) years, the continuing education course developed under subsection (1) of this section.

Section 36. KRS 194B.535 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

(1) The secretary for ***health and family services***[~~families and children~~] shall promulgate administrative regulations under KRS Chapter 13A setting forth the requirements for initial training courses and continuing education courses for staff of agencies providing protective shelter services for victims of domestic violence. The components of the training shall include the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.

(2) Each agency providing protective shelter services for victims of domestic violence shall develop and provide initial training courses and, at least once every two (2) years, continuing education courses which comply with the requirements developed pursuant to subsection (1) of this section, for staff of the agency.

Section 37. KRS 194B.570 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

(1) As used in ***Sections 37 to 40 of this Act***[~~KRS 194B.570 to 194B.578~~], "commission" means the Kentucky Commission on Community Volunteerism and Service.

(2) The Kentucky Commission on Community Volunteerism and Service is created and shall be attached to[~~ the Office of the Secretary of~~] the Cabinet for ***Health and Family Services***[~~Families and Children~~] for oversight, technical, and administrative support purposes. A director and other appropriate staff shall be hired by the commission when federal funds become available.

Section 38. KRS 194B.572 is repealed and reenacted as a new section of KRS Chapter 194A to read as follows:

The commission shall initially consist of twenty-five (25) voting members who shall be appointed by the Governor. Membership on the commission shall be for a three (3) year term, with the exception that initially one third (1/3) of the members shall serve for a term of one (1) year, one-third (1/3) of the members shall serve for a term of two (2) years, and one-third (1/3) of the members shall serve for a term of three (3) years. After the first six (6) months of operations, the Governor reserves the option to request the commission to submit recommendations for any additional members deemed necessary to balance the commission's perspective, provided that the commission's membership does not exceed twenty-five (25). The commission shall annually select from its membership a chair to serve for a term of one (1) year.

Section 39. KRS 194B.575 is repealed and reenacted as a new section of KRS Chapter 194A to read as follows:

The purpose of the commission is to engage in statewide strategic planning, establish relevant policies, provide administrative oversight, and promote programs and strengthen the service ethic among the Commonwealth's citizens by facilitating the development of strategic programs that enable citizens to address serious societal problems including, but not limited to, education reform through service to local communities.

Section 40. KRS 194B.578 is repealed and reenacted as a new section of KRS Chapter 194A to read as follows:

The commission shall:

(1) Develop a strategic plan for service in Kentucky which covers a three (3) year period, and supporting efforts to achieve the goals of this plan. The plan shall be updated annually;

(2) Oversee and submit Kentucky's annual applications to the Corporation for National Service, the federal funding authority, and other funding sources for the continuation and any expansion of the current KentuckyServe initiative;

(3) Conduct a competitive application process to determine the organizations that will be awarded subgrants to operate national service programs;

(4) Fulfill any other responsibilities required by the Corporation for National Service and other funding sources; and

(5) Promulgate administrative regulations pursuant to KRS Chapter 13A to establish operational guidelines for the commission.

Section 41. KRS 195.020 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services[~~ and the Cabinet for Families and Children~~] shall exercise all functions of the state in relation to:

(a) Administration and supervision of all forms of public assistance including general home relief, outdoor and indoor care for persons in need, old age assistance, aid to dependent children, and aid to individuals who are blind and other individuals with disabilities.

(b) Administration and supervision of services to needy, neglected, and dependent children.

(2) All administrative functions of the nature outlined above, heretofore performed by other agencies of the state, are hereby transferred to and shall hereafter be performed by the Cabinet for Health ***and Family*** Services[~~ or the Cabinet for Families and Children~~].

Section 42. KRS 195.105 is amended to read as follows:

(1) The ***secretary***[~~secretaries~~] for health ***and family*** services[~~ and for families and children~~] in coordination with the Personnel Cabinet ***is***[~~are~~] authorized to establish formal training programs within the Cabinet for Health ***and Family*** Services[~~ and the Cabinet for Families and Children~~] or within any of the departments, divisions, or sections of the ***cabinet***[~~cabinets~~] for the training of necessary personnel for the administration of the programs of the ***cabinet***[~~cabinets~~]. When courses of study, applicable to the program processes of the ***cabinet***[~~cabinets~~], are not available through instruction within the ***cabinet***[~~cabinets~~], arrangements may be made for the training of employees in any public or private school or institution having available facilities for that purpose, and this training shall be deemed to be a part of the ***cabinet's***[~~cabinets'~~] training program. Training of employees in public or private schools or institutions for this purpose shall be deemed a part of research assignments to be completed during the period of study, these assignments to relate directly to the work assignment of the employee. After consulting with the Personnel Cabinet, position classifications in the research series shall be established for employees on work study assignments, and funds of the ***cabinet***[~~cabinets~~] may be used to pay salaries commensurate with the appropriate classification while the employee is receiving such training.

(2) Any employee who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of such training, the state will hold a claim against that person for the amount of salary paid during the training period, and he will repay to the cabinet the sum paid to him by the cabinet during the period of his training.

Section 43. KRS 198A.035 is amended to read as follows:

(1) The Kentucky Housing Corporation shall oversee the development and implementation of the Kentucky housing policy. The corporation shall create an advisory committee on housing policy consisting of the following:

(a) The following ***nine (9)***[~~ten (10)~~] state government members, or their duly-appointed designees: the commissioner of education; commissioner of the Department for Local Government; commissioner of the Department of Housing, Buildings and Construction;[~~ secretary of the Cabinet for Families and Children;~~] secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Cabinet for Health ***and Family*** Services; executive director of the Human Rights Commission; state historic preservation officer; secretary of the Transportation Cabinet; and executive director of the Kentucky Housing Corporation.

(b) At-large members shall be appointed by the chairman of the board of directors of the Kentucky Housing Corporation. There shall be one (1) at-large representative for each of the following:

1. Public housing authorities;
2. Mortgage banking industry;
3. Manufactured housing industry;
4. Realtors;

5. Homebuilders;

6. Urban nonprofit housing organizations;

7. Rural nonprofit housing organizations;

8. Urban advocates for the homeless;

9. Rural advocates for the homeless;

10. Residents of economically-diverse urban neighborhoods;

11. Residents of economically-diverse rural neighborhoods;

12. Rental property providers;

13. Advocates for persons with physical disabilities;

14. Advocates for persons with mental disabilities;

15. The Kentucky State Building Trades Council;

16. The Kentucky League of Cities; and

17. The Kentucky Association of Counties.

(c) One (1) member of the Senate and one (1) member of the House of Representatives.

(2) State government members and General Assembly members shall serve on the advisory committee during the term of their elected or appointed state government positions. Members appointed as provided by subsection (1)(b) of this section shall be appointed for four (4) year terms, except that initially five (5) shall be appointed for two (2) year terms, six (6) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms.

(3) The advisory committee shall meet at least quarterly and hold additional meetings as necessary. Eleven (11) members of the committee shall constitute a quorum for the purposes of conducting business and exercising its powers for all purposes.

(4) Any vacancy shall be filled as provided by the requirements and procedures for the initial appointment and only for the remainder of the term of the initial appointment.

(5) Any at-large member may be removed at any time, with or without cause, by resolution of a majority of the board of directors of the corporation.

(6) The advisory committee shall consult with and advise the officers and directors of the corporation concerning matters relating to the Kentucky housing policy.

(7) The corporation shall annually report its findings and recommendations regarding the Kentucky housing policy to the Governor and the Interim Joint Committee on Local Government of the Legislative Research Commission.

(8) The advisory committee shall elect a presiding officer from among its members and may establish its own rules of procedure which shall not be inconsistent with the provisions of this chapter.

(9) Members of the advisory committee shall serve without compensation. Members who are not employees of the Commonwealth shall be entitled to reimbursement for actual expenses incurred in carrying out their duties on the committee.

(10) The Kentucky Housing Corporation shall provide the staff and funding for the administrative activities of the advisory committee. The Kentucky Housing Corporation shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of the advisory committee. The advisory committee may authorize studies as it deems necessary and utilize Kentucky Housing Corporation funds and other available resources from the public or private sector to provide housing needs data.

Section 44. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary for ***health and family services***[~~families and children~~];

(2) "Cabinet" means the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(3) "Department" means the Department for Community Based Services;

(4) "Child" means any person who has not reached his eighteenth birthday;

(5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;

(6) "Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization;

(7) "Child-placing agency" means any agency licensed by the cabinet which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;

(8) "Adoption worker" means an employee of the cabinet so designated by the secretary for ***health and family services***[~~families and children~~], a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;

(9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;

(10) "Group home" means a homelike facility, excluding Department of Juvenile Justice operated or contracted facilities, for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;

(11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;

(12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;

(13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption; and

(14) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. The consent shall be in writing, signed and sworn to by the consenting person and include the following:

(a) Date, time, and place of the execution of the consent;

(b) Name of the child, if any, to be adopted and the date and place of the child's birth;

(c) Consenting person's relationship to the child;

(d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;

(e) A statement that the consenting person understands that the consent will be final and irrevocable under this paragraph unless withdrawn under this paragraph.

1. If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the later of the placement approval or the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first class mail.

2. If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first class mail;

(f) Disposition of the child if the adoption is not adjudged;

(g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;

(h) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and

(i) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

Section 45. KRS 199.640 is amended to read as follows:

(1) Any facility or agency seeking to conduct, operate, or maintain any child-caring facility or child-placing agency shall first obtain a license to conduct, operate, or maintain the facility or agency from the cabinet.

(2) The cabinet shall:

(a) Develop standards, as provided in subsection (5) of this section, which must be met by any facility or agency seeking to be licensed to conduct, operate, or maintain a child-caring facility or child-placing agency;

(b) Issue licenses to any facility or agency found to meet established standards and revoke or suspend a license after a hearing in any case that a facility or agency holding a license is determined to have substantially failed to conform to the requirements of the standards;

(c) Establish and follow procedures designed to insure that any facility or agency licensed to conduct, operate, or maintain a child-caring facility or child-placing agency complies with the requirements of the standards on an ongoing basis.

(3) Licenses shall be issued for a period of one (1) year from date of issue unless revoked by the cabinet. Each licensed facility or agency shall be visited and inspected at least one (1) time each year by a person authorized by the cabinet and meeting specific qualifications established by the secretary of the cabinet in an administrative regulation. A complete report of the visit and inspection shall be filed with the cabinet.

(4) Each license issued shall specify the type of care or service the licensee is authorized to perform. Each initial application for a license shall be accompanied by a fee of one hundred dollars (S100) and shall, except for provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of fifty dollars (S50). The fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of said account shall lapse to the general fund at the end of each biennium.

(5) (a) The secretary shall promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies relating to the health and safety of all children in the care of the facility or agency, the basic components for a quality program, as referenced below, and any other factors as may be necessary to promote the welfare of children cared for or placed by the agencies and facilities. Standards established may vary depending on the capacity of the agency or facility seeking licensure. These administrative regulations shall establish standards that insure that:

1. The treatment program offered by the facility or agency is directed toward child safety, improved child functioning, improved family functioning, and continuity and permanence for the child;
2. The facility or agency has on staff, or has contracted with, individuals who are qualified to meet the treatment needs of the children being served, including their psychological and psychiatric needs;
3. The facility or agency has procedures in place to insure that its staff receives ongoing training and that all staff members who are required to do so meet all regional and national standards;
4. The facility or agency develops an integrated, outcomes-based treatment plan that meets the health, mental health, education, safety, and security needs of each child in its care;
5. The facility or agency has procedures in place to include parents, family, and other caregivers in a child's treatment program;
6. The facility or agency has procedures in place whereby it evaluates its programs on a quarterly basis and documents changes in the program if the results of the review indicate a change is needed;
7. The facility or agency makes available quality programs for substance abuse prevention and treatment with providers licensed under KRS Chapter 222 as part of its treatment services;
8. The facility or agency initiates discharge planning at admission and provides sufficient aftercare; and
9. The facility or agency has procedures in place that outline the structure and objectives of cooperative relationships with the community within which it is located and the local school district.

(b) The secretary shall promulgate regulations establishing recordkeeping and reporting requirements and standards for licensed agencies and facilities that recognize the electronic storage and retrieval of information for those facilities that possess the necessary technology and that include, at a minimum, the following information relating to children in the care of the agency or facility:

1. The name, age, social security number, county of origin, and all former residences of the child;
2. The names, residences, and occupations, if available, of the child's parents;
3. The date on which the child was received by the agency or facility; the date on which the child was placed in a foster home or made available for adoption; and the name, occupation, and residence of any person with whom a child is placed; and
4. A brief and continuing written narrative history of each child covering the period during which the child is in the care of the agency or facility.

(c) The secretary may promulgate administrative regulations creating separate licensure standards for different types of facilities.

(d) The secretary shall promulgate administrative regulations to establish practices and procedures for the inspection of child-caring facilities and child-placing agencies. These administrative regulations shall establish a uniform reporting mechanism that includes guidelines for enforcement.

(6) Any administrative regulations promulgated pursuant to KRS Chapter 13A to govern services provided by church-related privately operated child-caring agencies or facilities shall not prohibit the use of reasonable corporal physical discipline which complies with the provisions of KRS 503.110(1), including the use of spanking or paddling, as a means of punishment, discipline, or behavior modification and shall prohibit the employment of persons convicted of any sexual offense with any child-caring facility or child-placing agency.

(7) All records regarding children or facts learned about children and their parents and relatives by any licensed agency or facility shall be deemed confidential in the same manner and subject to the same provisions as similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection except to authorized employees of the cabinet or of such licensed agency or facility in performance of their duties.

[~~(8) Other than for the establishment of standards, the Cabinet for Families and Children may contract with the Cabinet for Health Services to perform any or all of its responsibilities under this section and KRS 199.670 relating to the licensing and inspection of child-caring facilities and child-placing agencies.~~]

Section 46. KRS 199.801 is amended to read as follows:

(1) The department shall establish a procedure throughout the state that is designed to determine and expedite the placement of children who are in the custody of the department. The procedure shall utilize a statewide placement coordinator and district placement coordinators who may be state employees or employees of a contracted entity, and who shall be assigned and located in each of the department's districts.

(2) Upon determining that a child shall be removed from the current living arrangement, the social service worker with responsibility for the child shall contact the district placement coordinator to facilitate the placement. In consultation with the social service worker, the district placement coordinator shall determine the appropriate type of placement according to the child's circumstances and needs and shall attempt to locate the appropriate placement within the child's home county.

(3) The living arrangement and placement selected for the child shall be the type of facility that is determined to be the best alternative for the child that is in the closest proximity to the child's home county.

(4) If the type of placement that best suits the child's needs is not available in the child's home county, the district placement coordinator shall document the circumstance as an unmet need and may seek a placement in another county located within the home district of the child.

(5) If the type of placement that best suits the child's needs is not available in the child's home district, the district placement coordinator shall document the circumstance as an unmet need and may seek a placement in surrounding districts by contacting the statewide placement coordinator.

(6) If the type of placement that best suits the child's needs is not available in the districts surrounding the child's home district, the district placement coordinator shall document the circumstance as an unmet need and may seek a placement in any district within the state by contacting the statewide placement coordinator.

(7) If the type of placement that best suits the child's needs is not available within the state, the statewide placement coordinator shall contact the commissioner of the department or the commissioner's designee to explore placement options.

(8) The statewide placement coordinator and every district placement coordinator shall compile information that identifies the unmet needs for their jurisdiction, and shall submit the data and recommendations for meeting the unmet needs to the commissioner of the department.

(9) The commissioner shall develop a state placement resource plan that identifies areas of unmet need and strategies to meet the need. The plan shall be used to guide and, if necessary, restrict the development of new facilities, the expansion of existing facilities, and the geographic location of placement alternatives.

(10) The commissioner and the statewide planning coordinator shall assist the Statewide Strategic Planning Committee for Children in Placement, created in ***Section 32 of this Act***[~~KRS 194B.102~~], in the development of a statewide facilities services plan.

Section 47. KRS 199.8945 is amended to read as follows:

(1) The ***secretary***[~~secretaries~~] of the Cabinet for ***Health and Family Services***[~~Families and Children and Cabinet for Health Services, or their designees,~~] shall ***work to achieve***[~~collaborate on the expansion of the Healthy Start in Child Care Program.~~] the goals of the Healthy Start in Child Care Program ***as follows***[~~are~~]:

  (a) To train and educate child-care providers in health and safety;

  (b) Provide nutrition consultation to parents;

  (c) Increase awareness of methods for the prevention of communicable diseases in child-care settings; and

  (d) Provide information to parents of children who attend child care.

(2) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall establish technical assistance positions dedicated to child care within the Kentucky child-care resource and referral agencies in order to offer technical assistance to child-care providers to upgrade quality in early child-care and education facilities.

Section 48. KRS 199.896 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, maintain, or advertise any child-care center without

obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for a child-care center, criteria for the denial of a license if criminal records indicate convictions that may impact the safety and security of children in care, and procedures for enforcement of penalties.

(3) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(4) No child-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.

(5) If, upon inspection or investigation, the inspector general finds that a child-care center licensed under this section has violated the administrative regulations, standards, or requirements of the cabinet, the inspector general shall issue a statement of deficiency to the center containing:

(a) A statement of fact;

(b) A statement of how an administrative regulation, standard, or requirement of the cabinet was violated; and

(c) The time frame, negotiated with the child-care center, within which a violation is to be corrected, except that a violation that poses an immediate threat to the health, safety, or welfare of children in the center shall be corrected in no event later than five (5) working days from the date of the statement of deficiency.

(6) The Cabinet for ***Health and Family Services***[~~Families and Children~~], in consultation with the [~~Cabinet for Health Services,~~]Office of the Inspector General, shall establish by administrative regulations promulgated in accordance with KRS Chapter 13A an informal dispute resolution process containing at least two (2) separate levels of review through which a child-care provider may dispute licensure deficiencies that have an adverse effect on the child-care provider's license.

(7) A child-care center shall have the right to appeal to the Cabinet for Health ***and Family*** Services under KRS Chapter 13B any action adverse to its license or the assessment of a civil penalty issued by the inspector general as the result of a violation contained in a statement of deficiency within twenty (20) days of the issuance of the action or assessment of the civil penalty. An appeal shall not act to stay the correction of a violation.

(8) In assessing the civil penalty to be levied against a child-care center for a violation contained in a statement of deficiency issued under this section, the inspector general or the inspector general's designee shall take into consideration the following factors:

(a) The gravity of the threat to the health, safety, or welfare of children posed by the violation;

(b) The number and type of previous violations of the child-care center;

(c) The reasonable diligence exercised by the child-care center and efforts to correct the violation; and

(d) The amount of assessment necessary to assure immediate and continued compliance.

(9) Upon a child-care center's failure to take action to correct a violation of the administrative regulations, standards, or requirements of the cabinet contained in a statement of deficiency, or at any time when the operation of a child-care center poses an immediate threat to the health, safety, or welfare of children in the center, and the child-care center continues to operate after the cabinet has taken emergency action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee shall take at least one (1) of the following actions against the center:

(a) Institute proceedings to obtain an order compelling compliance with the administrative regulations, standards, and requirements of the cabinet;

(b) Institute injunctive proceedings in Circuit Court to terminate the operation of the center;

(c) Institute action to discontinue payment of child-care subsidies; or

(d) Suspend or revoke the license or impose other penalties provided by law.

(10) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of child-care center license of the operator. Identifying information regarding children and their families shall remain confidential.

(11) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the child-care center within the past year. All information distributed by the cabinet under this subsection shall include a statement indicating that the reports as provided under this subsection from the past five (5) years are available from the child-care center upon the parent's, custodian's, guardian's, or other interested person's request.

(12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and certification applications shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated

for the use of the cabinet. The balance of the special fund shall lapse to the general fund at the end of each biennium.

(13) Any advertisement for child-care services shall include the address of where the service is being provided.

(14) All inspections of licensed and unlicensed child-care centers by[~~ the Cabinet for Families and Children and~~] the Cabinet for Health ***and Family*** Services shall be unannounced.

(15) All employees and owners of a child-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; and

(c) Developmentally appropriate child-care practice.

(16) All employees and owners of a child-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(17) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (15) of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (15) of this section.

(18) Child-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.

(19) Directors and employees of child-care centers in a position that involves supervisory or disciplinary power over a minor, or direct contact with a minor, shall submit to a criminal record check in accordance with KRS 17.165. The application shall be denied if the applicant has been found by the Cabinet for ***Health and Family Services***[~~Families and Children~~] or a court to have abused or neglected a child or has been convicted of a violent crime or sex crime as defined in KRS 17.165.

(20) A director or employee of a child-care center may be employed on a probationary status pending receipt of the criminal background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

Section 49. KRS 200.700 is amended to read as follows:

(1) The Early Childhood Development Authority is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including, but not limited to, employing other persons, consultants, attorneys, and agents. The authority shall be attached to the Office of the Governor, Office of Early Childhood Development, for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.

(2) The authority shall consist of the following ***sixteen (16)***[~~seventeen (17)~~] members:

(a) The executive director of the Governor's Office of Early Childhood Development, who shall serve as chair;

(b) The secretary of the Education, Arts, and Humanities Cabinet;

(c) The secretary of the Cabinet for Health ***and Family*** Services;

(d)[~~ The secretary of the Cabinet for Families and Children;~~

~~(e)~~] One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;

(e)[~~(f)~~] One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;

(f)[~~(g)~~] Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor. At least one (1) private sector member shall be appointed from each congressional district;

(g)[~~(h)~~] Three (3) citizens at large of the Commonwealth who shall be appointed by the Governor; and

(h)[~~(i)~~] One (1) early childhood development advocate.

(3) No later than thirty (30) days after July 14, 2000, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:

(a) The Kentucky AFL-CIO;

(b) The Kentucky Chamber of Commerce;

(c) The Kentucky League of Cities;

(d) The Kentucky Medical Association;

(e) The Louisville Urban League and Lexington Urban League;

(f) The Kentucky County Judge/Executives Association; and

(g) The Kentucky Council on Postsecondary Education.

(4) The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section. The Governor shall fill a vacancy occurring before the expiration of the appointed term from the appropriate list of nominees. If there are no nominees remaining on the appropriate list, the Governor shall request a list of additional nominees from the appropriate organization.

(5) (a) The initial terms of the private sector and citizen at-large members of the authority shall be for:

1. One (1) year for two (2) of the initial terms;

2. Two (2) years for three (3) of the initial terms;

3. Three (3) years for two (2) of the initial terms; and

4. Four (4) years for four (4) of the initial appointments.

(b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment.

(c) Members shall serve until a successor has been appointed.

(6) Private sector and citizen at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(7) In making appointments to the authority, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the authority of broad constituencies of Kentucky's early childhood development community.

(8) Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

(10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

Section 50. KRS 200.703 is amended to read as follows:

(1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:

(a) Implementation of public health initiatives identified by the General Assembly;

(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;

(c) Voluntary immunization for children not covered by public or private health insurance;

(d) Availability of high-quality, affordable early child-care and education options; and

(e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.

(2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

(3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health ***and Family*** Services;~~[the Cabinet for Families and Children;]~~ the Education, Arts, and Humanities Cabinet; the Finance and Administration Cabinet; or other appropriate administrative agency.

(4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.

(5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Coordinate and improve early childhood development services, outcomes, and policies;

(b) Establish procedures that relate to its governance;

(c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;

(d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;

(e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and

(f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:

1. The financial management of funds paid to grantees;

2. The maintenance of records; and

3. An independent audit of the use of grant funds.

(6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

(7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.

(8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:

(a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or

(b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority, or any programs that had been funded by the authority with expenditures from the early childhood development fund.

(9) (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from~~[the Cabinet for Families and Children;]~~ the Cabinet for Health ***and Family*** Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.

(b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.

(10) The authority shall work with local entities, including, but not limited to, health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination.

(11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

Section 51. KRS 205.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health and Family Services***~~[Families and Children. For the purposes of KRS 205.510 to 205.645 and KRS 205.8451 to 205.8483, "cabinet" means the Cabinet for Health Services]~~;

(2) "Secretary" means the secretary for ***health and family services***~~[families and children]~~ or his authorized representative~~[. For the purposes of KRS 205.510 to 205.645 and KRS 205.8451 to 205.8483, "secretary" means the secretary of the Cabinet for Health Services or his authorized representative]~~;

(3) "Public assistance" means money grants, assistance in kind, or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children, or persons with whom a needy child lives or a family containing a combination of these categories, except that the term shall not be construed to permit the granting of financial

aid where the purpose of such aid is to obtain an abortion. For purposes of this section and KRS 205.560, "abortion" means an act, procedure, device, or prescription administered or prescribed for a pregnant woman by any person, including the pregnant woman herself, producing premature expulsion of the fetus. Abortion does not include an induced premature birth intended to produce a live viable child;

(4) "Needy child" means a child who has been deprived of parental support by reasons prescribed by regulations within the scope of Title IV of the Social Security Act, its amendments, and federal regulations and who does not have otherwise provided for him a subsistence compatible with decency and health;

(5) "Parent," in addition to biological or adoptive parent, shall include stepparent;

(6) "Needy aged" means a person who has attained the age of sixty-five (65) and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(7) "Needy blind" means a person who has no vision or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(8) "Person with whom a needy child lives" means the individual prescribed by regulation, with whom such child is living in a place of residence maintained by such individual by himself or together with one (1) or more other persons;

(9) "Needy permanently and totally disabled" means a person eighteen (18) years of age or older and who has a permanent physical or mental impairment, disease, or loss that substantially precludes him from engaging in useful occupations within his competence and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(10) "Private institution" means any establishment or place other than a public institution operated or maintained by any individual, association, corporation, or other organization which provides a group living arrangement for four (4) or more individuals, who are cared for and maintained in residence for compensation or otherwise;

(11) "Public institution" means any establishment or place which is the responsibility of and administered by the state or any political subdivision thereof providing a group living arrangement in which one (1) or more individuals are cared for and maintained in residence;

(12) "Public medical institution" means any public institution the primary purpose of which is to furnish hospital care and medical treatment;

(13) "Person determined to be potentially responsible" means any person who:

  (a) Is not aged, blind, disabled, incapacitated, or needed in the home:

    1. Because of the illness or incapacity of a member of the family; or

    2. Because of children in the home under the age of six (6); or

  (b) Volunteers for such determination;

(14) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death;

(15) "Adult day-care center" means any adult care facility which provides part-time care, day or night, but less than twenty-four (24) hours, to at least four (4) adults not related to the operator of the adult care facility by blood, marriage, or adoption.

Section 52. KRS 205.177 is amended to read as follows:

(1) Notwithstanding any existing state statute or regulation to the contrary, any pertinent information concerning individual clients, patients, or applicants in the possession of the Justice Cabinet, Cabinet for Health ***and Family*** Services,[~~ Cabinet for Families and Children,~~] Department of Education, or any other state or local governmental agency may be shared with any authorized representative of any other state or local governmental agency of similar function if the agency has a direct, tangible, legitimate interest in the individual concerned or his immediate family.

(2) Any state agency designated in subsection (1) of this section may share pertinent information concerning a client, patient, or applicant with any private or quasi-private agency when such agency has an agreement with that state agency assuring the confidentiality of all such information, and provided that the private or quasi-private agency has a direct, tangible, legitimate interest in the individual concerned or his immediate family.

Section 53. KRS 205.6336 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet, after consultation with the secretary for the Cabinet for Health ***and Family*** Services, shall on a quarterly basis, certify to the Interim Committee on Appropriations and Revenue the general fund savings realized from the procedures required by KRS 205.6310 to 205.6332 and any other procedures adopted by the Cabinet for Health ***and Family*** Services[~~ or the Kentucky Health Policy Board~~] to control the cost of health care.

(2) The certification shall indicate the following:

  (a) The means by which savings were achieved, including a description of the discrete procedure used to achieve the savings; and

(b) The amount saved as a result of the specific procedure, including an explanation as to the calculations and assumptions used in determining the amount.

(3) The amount certified by the secretary under this section shall be transferred to a trust account to be utilized by the secretary of the Cabinet for Health ***and Family*** Services to provide health-care coverage for additional categories of citizens, but the funds in the trust account shall not be spent until appropriated by the General Assembly. The funds in the trust account shall not lapse. The secretary shall give priority in utilizing any appropriated trust account funds to matching available federal funds in the Medicaid program.

(4) Savings in the general fund appropriation for the Medicaid program shall be determined as follows:

(a) To the extent that the average cost per month per eligible actually experienced by the Medicaid program is less than the average cost per month per eligible reflected in the enacted budget, the savings attributable to that difference shall be deemed to be eligible for certification under this section.

(b) To the extent that the number of eligibles actually participating in the Medicaid program is less than the number reflected in the enacted budget, the savings attributable to that difference shall be deemed not eligible for certification under this section.

(5) Savings in the general fund appropriation to the Department for Mental Health and Mental Retardation Services shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(6) Savings in the general fund appropriation to the Department for Public Health shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(7) Savings in the general fund appropriation to the Department for Community Based Services shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(8) Only those savings that can be certified as being recurring shall be transferred to the trust fund.

Section 54. KRS 210.502 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

(a) The secretary of the Cabinet for Health ***and Family*** Services;

(b)[~~ The secretary of the Cabinet for Families and Children;~~

~~(c)~~] The secretary of the Justice Cabinet;

(c)[~~(d)~~]The commissioner of the Department for Mental Health and Mental Retardation Services;

(d)[~~(e)~~]The commissioner of the Department for Medicaid Services;

(e)[~~(f)~~] The commissioner of the Department of Corrections;

(f)[~~(g)~~] The commissioner of the Department of Juvenile Justice;

(g)[~~(h)~~] The commissioner of the Department of Education;

(h)[~~(i)~~] The commissioner of the Department of Vocational Rehabilitation;

(i)[~~(j)~~] The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

(j)[~~(k)~~] The director of the ***Division***[~~Office~~] of Family Resource and Youth Services Centers;

(k)[~~(l)~~] The[~~ executive~~] director of the ***Division***[~~Office~~] of Aging Services of the Cabinet for Health ***and Family*** Services;

(l)[~~(m)~~] The executive director of the Kentucky Agency for Substance Abuse Policy;

(m)[~~(n)~~] The executive director of the Criminal Justice Council;

(n)[~~(o)~~] The director of the Administrative Office of the Courts;

(o)[~~(p)~~] The chief executive officer of the Kentucky Housing Corporation;

(p)[~~(q)~~] The executive director of the Office of Transportation Delivery of the Transportation Cabinet;

(q)[~~(r)~~] The commissioner of the Department of Public Health;

(r)[~~(s)~~] Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;

(s)[~~(t)~~] Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;

(t)[~~(u)~~] A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health ***and Family*** Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(u)[~~(v)~~] A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is

over age eighteen (18), appointed by the secretary of the Cabinet for Health ***and Family*** Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and

(v)[~~(w)~~] An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health ***and Family*** Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.

(2) The secretary of the Cabinet for Health ***and Family*** Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members designated in paragraphs (a) to *(s)*[~~(t)~~] of subsection (1) of this section shall serve during their terms of office.

(4) Members and alternates designated in paragraphs *(t)*[~~(u)~~] to *(v)*[~~(w)~~] of subsection (1) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 55. KRS 210.575 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities. The commission shall consist of:

(a) The secretary of the Cabinet for Health ***and Family*** Services;

(b)[~~ The secretary of the Cabinet for Families and Children;~~

~~(c)~~] The commissioner of the Department for Mental Health and Mental Retardation Services;

(c)[~~(d)~~]The commissioner of the Department for Medicaid Services;

(d)[~~(e)~~]The commissioner of the Department of Vocational Rehabilitation;

(e)[~~(f)~~] The director of the University Affiliated Program at the Interdisciplinary Human Development Institute of the University of Kentucky;

(f)[~~(g)~~] The director of the Kentucky Council on Developmental Disabilities;

(g)[~~(h)~~] Two (2) members of the House of Representatives, appointed by the Speaker of the House;

(h)[~~(i)~~] Two (2) members of the Senate, appointed by the Senate President; and

(i)[~~(j)~~] Public members, appointed by the Governor as follows:

1. Five (5) family members, at least one (1) of whom shall be a member of a family with a child with mental retardation or other developmental disabilities, and one (1) of whom shall be a member of a family with an adult with mental retardation or other developmental disabilities. Of these five (5) family members, at least two (2) shall be members of a family with an individual with mental retardation or other developmental disabilities residing in the home of the family member or in a community-based setting, and at least two (2) shall be members of a family with an individual with mental retardation or other mental disabilities residing in an institutional residential facility that provides service to individuals with mental retardation or other developmental disabilities;
2. Three (3) persons with mental retardation or other developmental disabilities;
3. Two (2) business leaders;
4. Three (3) direct service providers representing the Kentucky Association of Regional Programs and the Kentucky Association of Residential Resources; and
5. One (1) representative of a statewide advocacy group.

The six (6) appointments made under subparagraphs 1. and 2. of this paragraph shall be chosen to reflect representation from each of Kentucky's six (6) congressional districts.

(2) The secretary of the Cabinet for Health ***and Family*** Services shall serve as chair of the commission.

(3) Members defined in paragraphs (a) to *(h)*[~~(i)~~] of subsection (1) of this section shall serve during their terms of office. All public members appointed by the Governor shall serve a four (4) year term and may be reappointed for one (1) additional four (4) year term.

(4) All public members of the commission shall receive twenty-five dollars ($25) per day for attending each meeting. All commission members shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of duties of the commission.

Section 56. KRS 213.141 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars ($5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.

(2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ten dollars ($10)

to be paid for a certified copy of a record of a birth, three dollars ($3) of which shall be used by the Cabinet for Health ***and Family*** Services~~[or the Cabinet for Families and Children]~~ for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children, and one dollar ($1) of which shall be used by the Division of ***Adult***~~[Maternal]~~ and Child Health ***Improvement*** to pay for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases listed in KRS 205.560(1)(c), if:

(a) The amino acid modified preparations or low-protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases listed in KRS 205.560(1)(c) and are administered under the direction of a physician; and

(b) The affected person's amino acid modified formula and foods are not covered under any public or private health benefit plan.

(3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.

(4) (a) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.

(b) No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a member of the Kentucky National Guard who has received deployment orders during the sixty (60) days prior to the furnishing of the certificate.

(5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

Section 57. KRS 216.380 is amended to read as follows:

(1) The licensure category of critical access hospital is hereby created for existing licensed acute-care hospitals which qualify under this section for that status.

(2) It shall be unlawful to operate or maintain a critical access hospital without first obtaining a license from the Cabinet for Health ***and Family*** Services. An acute-care hospital converting to a critical access hospital shall not require a certificate of need. A certificate of need shall not be required for services provided on a contractual basis in a critical access hospital. A certificate of need shall not be required for an existing critical access hospital to increase its acute-care bed capacity to twenty-five (25) beds.

(3) Except as provided in subsection (4) of this section, only a hospital licensed as a general acute-care hospital may be relicensed as a critical access hospital if:

(a) The hospital is located in a county in a rural area that is:

1. Located more than a thirty-five (35) mile drive, or, where the terrain is mountainous or only secondary roads are available, located more than a fifteen (15) mile drive, from another acute-care hospital or critical access hospital; or

2. Certified by the secretary as a necessary provider of health care services to area residents;

(b) For the purposes of paragraph (a) of this subsection, a hospital shall be considered to be located in a rural area if the hospital is not in a county which is part of a standard metropolitan statistical area, the hospital is located in a rural census tract of a metropolitan statistical area as determined under the most recent modification of the Goldsmith Modification, or is designated by the state as a rural provider. The secretary shall designate a hospital as a rural provider if the hospital is not located in a county which has the largest county population of a standard metropolitan statistical area;

(c) Except as provided in paragraph (d) of this subsection, the hospital provides not more than twenty-five (25) acute care inpatient beds for providing acute inpatient care for a period that does not exceed, as determined on an annual, average basis, ninety-six (96) hours;

(d) If the hospital is operating swing beds under which the hospital's inpatient hospital facilities are used for the provision of extended care services, the hospital may be designated as a critical access hospital so long as the total number of beds that may be used at any time for furnishing of either extended care services or acute inpatient services does not exceed twenty-five (25) beds. For the purposes of this section, any bed of a unit of the hospital that is licensed as a nursing facility at the time the hospital applies to the state for designation as a critical care access hospital shall not be counted.

(4) The secretary for health ***and family*** services may designate a facility as a critical access hospital if the facility:

(a) Was a hospital that ceased operations on or after ten (10) years prior to April 21, 2000; or

(b) Was a hospital that was converted to a licensed primary care center, rural health clinic, ambulatory health center, or other type of licensed health clinic or health center and, as of the effective date of that conversion, meets the criteria for licensure as a critical access hospital under this subsection or subsection (3) of this section.

(5) A critical access hospital shall provide the following services:

(a) Twenty-four (24) hour emergency-room care that the secretary determines is necessary for insuring access to emergency care services in each area served by a critical access hospital; and

(b) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on a part-time, off-site contractual basis.

(6) A critical access hospital may provide the following services:

(a) Swing beds or a distinct unit of the hospital which is a nursing facility in accordance with KRS Chapter 216B and subject to approval under certificate of need;

(b) Surgery;

(c) Normal obstetrics;

(d) Primary care;

(e) Adult day health care;

(f) Respite care;

(g) Rehabilitative and therapeutic services including, but not limited to, physical therapy, respiratory therapy, occupational therapy, speech pathology, and audiology, which may be provided on an off-site contractual basis;

(h) Ambulatory care;

(i) Home health services which may be established upon obtaining a certificate of need; and

(j) Mobile diagnostic services with equipment not exceeding the major medical equipment cost threshold pursuant to KRS Chapter 216B and for which there are no review criteria in the State Health Plan.

(7) In addition to the services that may be provided under subsection (6) of this section, a critical access hospital may establish the following units in accordance with applicable Medicare regulations and subject to certificate of need approval:

(a) A psychiatric unit that is a distinct part of the hospital, with a maximum of ten (10) beds; and

(b) A rehabilitation unit that is a distinct part of the hospital, with a maximum of ten (10) beds notwithstanding any other bed limit contained in law or regulation.

(8) Psychiatric unit and rehabilitation unit beds operated under subsection (7) of this section shall not be counted in determining the number of beds or the average length of stay of a critical access hospital for purposes of applying the bed and average length of stay limitations under paragraph (c) of subsection (3) of this section.

(9) The following staffing plan shall apply to a critical access hospital:

(a) The hospital shall meet staffing requirements as would apply under section 1861(e) of Title XVIII of the Federal Social Security Act to a hospital located in a rural area except that:

1. The hospital need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the hospital shall be open and fully staffed, except insofar as the facility is required to make available emergency services and nursing services available on a twenty-four (24) hour basis; and

2. The hospital need not otherwise staff the facility except when an inpatient is present; and

(b) Physician assistants and nurse practitioners may provide inpatient care within the limits of their statutory scope of practice and with oversight by a physician who is not required to be on-site at the hospital.

(10) A critical access hospital shall have a quality assessment and performance improvement program and procedures for review of utilization of services.

(11) A critical access hospital shall have written contracts assuring the following linkages:

(a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the critical access hospital for recuperative care;

(b) Ambulance services;

(c) Home health services; and

(d) Nursing facility services if not provided on-site.

(12) If the critical access hospital is part of a rural health network, the hospital shall have the following:

(a) An agreement for patient referral and transfer, development, and use of communications systems including telemetry and electronic sharing of patient data, and emergency and nonemergency transportation; and

(b) An agreement for credentialing and quality assurance with a network hospital, peer review organization, or other appropriate and qualified entity identified in the state rural health plan.

(13) The Cabinet for Health ***and Family*** Services and any insurer or managed care program for Medicaid recipients that contracts with the Department for Medicaid Services for the receipt of Federal Social Security Act Title XIX funds shall

provide for reimbursement of services provided to Medicaid recipients in a critical access hospital at rates that are at least equal to those established by the Federal Health Care Financing Administration ***or Centers for Medicare and Medicaid Services*** for Medicare reimbursement to a critical access hospital.

(14) The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

Section 58. KRS 216.583 is amended to read as follows:

The Long-Term Care Coordinating Council shall be composed of the following members from within the cabinet: the commissioner of the Department for Public Health; the commissioner of the Department for Mental Health and Mental Retardation Services; the inspector general; the director of the Division of ***Health Care Facilities and Services***[~~Long Term Care~~]; the[~~ executive~~] director of the ***Division***[~~Office~~] of Aging Services; the commissioner of the Department for Medicaid Services; the general counsel; and the long-term care ombudsman.

Section 59. KRS 216.885 is amended to read as follows:

(1) It is unlawful to operate or maintain a PPEC center without first obtaining a certificate of need[~~ from the Kentucky Health Policy Board~~] and a license for the PPEC center from the cabinet. The cabinet is responsible for licensing PPEC centers in accordance with the provisions of KRS Chapter 216B.

(2) Separate licenses are required for PPEC centers maintained on separate premises, even though they are operated under the same management. Separate licenses are not required for separate buildings on the same grounds.

(3) The Cabinet for Health ***and Family*** Services may deny, revoke, modify, or suspend a license in accordance with KRS 216B.105.

Section 60. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Abortion facility" means any place in which an abortion is performed;

(2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;

(3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; and the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;

(4) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars ($1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;

(5) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(6) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;

(7) "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;

(8) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;

(9) "Certified surgical assistant" means a certified surgical assistant or certified first assistant who is certified by the National Surgical Assistant Association on the Certification of Surgical Assistants, the Liaison Council on Certification of Surgical Technologists, or the American Board of Surgical Assistants. The certified surgical assistant is an unlicensed health-care provider who is directly accountable to a physician licensed under KRS Chapter 311 or, in the absence of a physician, to a registered nurse licensed under KRS Chapter 314;

(10) "Continuing care retirement community" means a community that provides, on the same campus, a continuum of residential living options and support services to persons sixty (60) years of age or older under a written agreement. The residential living options shall include independent living units, nursing home beds, and either assisted living units or

personal care beds;

(11) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;

(12) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;

(13) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;

(14) "Independent living" means the provision of living units and supportive services including, but not limited to, laundry, housekeeping, maintenance, activity direction, security, dining options, and transportation;

(15) "Intraoperative surgical care" includes the practice of surgical assisting in which the certified surgical assistant or physician assistant is working under the direction of the operating physician as a first or second assist, and which may include the following procedures:

(a) Positioning the patient;

(b) Preparing and draping the patient for the operative procedure;

(c) Observing the operative site during the operative procedure;

(d) Providing the best possible exposure of the anatomy incident to the operative procedure;

(e) Assisting in closure of incisions and wound dressings; and

(f) Performing any task, within the role of an unlicensed assistive person, or if the assistant is a physician assistant, performing any task within the role of a physician assistant, as required by the operating physician incident to the particular procedure being performed;

(16) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;

(17) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;

(18) "Nonclinically-related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;

2. Telecommunications or telephone systems;

3. Management information systems;

4. Ventilation systems;

5. Heating or air conditioning, or both;

6. Energy conservation; or

7. Administrative offices;

(19) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;

(20) "Perioperative nursing" means a practice of nursing in which the nurse provides preoperative, intraoperative, and postoperative nursing care to surgical patients;

(21) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political

subdivision or instrumentality including a municipal corporation of a state;

(22) "Physician assistant" means the same as the definition provided in KRS 311.550;

(23) "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the cabinet;

(24) "Registered nurse first assistant" means one who:

(a) Holds a current active registered nurse licensure;

(b) Is certified in perioperative nursing; and

(c) Has successfully completed and holds a degree or certificate from a recognized program, which shall consist of:

1. The Association of Operating Room Nurses, Inc., Core Curriculum for the registered nurse first assistant; and

2. One (1) year of postbasic nursing study, which shall include at least forty-five (45) hours of didactic instruction and one hundred twenty (120) hours of clinical internship or its equivalent of two (2) college semesters.

A registered nurse who was certified prior to 1995 by the Certification Board of Perioperative Nursing shall not be required to fulfill the requirements of paragraph (c) of this subsection;

(25) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services;

(26) "Sexual assault examination facility" means a licensed health facility, emergency medical facility, primary care center, or a children's advocacy center or rape crisis center that is regulated by the Cabinet for Health ***and Family*** Services[~~ or the Cabinet for Families and Children~~], and that provides sexual assault examinations under KRS 216B.400;

(27) "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;

(28) "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility;

(29) "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility;

(30) "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation;

(31) "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one (1) person from another person;

(32) "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;

(33) "To establish" means to construct, develop, or initiate a health facility;

(34) "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and

(35) "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as

having the means of providing, specified health services.

Section 61. KRS 216B.332 is amended to read as follows:

(1) To be eligible for a certificate of compliance, a continuing care retirement community shall certify in writing to the cabinet and shall disclose in writing to each of its residents that:

(a) None of the health facilities or health services operated by the continuing care retirement community shall apply for or become certified for participation in the Medicaid program; and

(b) No claim for Medicaid reimbursement shall be submitted for any person for any health service provided by the continuing care retirement community.

(2) A continuing care retirement community may establish one (1) bed at the nursing home level of care for every four (4) living units or personal care beds operated by the continuing care retirement community collectively. All residents in nursing home beds shall be assessed using the Health Care Financing Administration ***or Centers for Medicare and Medicaid Services*** approved long-term care resident assessment instrument.

(3) Admissions to continuing care retirement community nursing home beds shall be exclusively limited to on-campus residents. A resident shall not be admitted to a continuing care retirement community nursing home bed prior to ninety (90) days of residency in the continuing care retirement community unless the resident experiences a significant change in health status documented by a physician. No resident admitted to a nursing home bed shall be transferred or discharged without thirty (30) days prior written notice to the resident or his or her guardian.

(4) A continuing care retirement community shall assist each resident upon a move-out notice to find appropriate living arrangements. Each continuing care retirement community shall share information on alternative living arrangements provided by the ***Division***[~~Office~~] of Aging Services at the time a move-out notice is given to a resident. The written agreement executed by the resident and the continuing care retirement community shall contain provisions for assisting any resident who has received a move-out notice to find appropriate living arrangements, prior to the actual move-out date.

Section 62. KRS 217.125 is amended to read as follows:

(1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for Health ***and Family*** Services.

(2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application for the permit to operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall establish a fee schedule according to authorization in the state budget document. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.

(4) Except as otherwise provided in subsection (6) of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall establish a fee schedule according to authorization in the state budget document.

(5) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.

(6) Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade, charitable food kitchens, and all facilities operated by the Cabinet for Health ***and Family*** Services[~~, the Cabinet for Families and Children,~~] or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code. For this subsection, the term "charitable food kitchens" means a not-for-profit, benevolent food service establishment where more than one-half (1/2) of the employees are volunteers.

(7) Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection (6) of this section, and if the establishment is in compliance with KRS 217.005 to

217.215 and regulations of the cabinet.

(8) Each permit to operate a food processing establishment, food storage warehouse, salvage distributor, salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

Section 63. KRS 281.870 is amended to read as follows:

(1) There is hereby created a Coordinated Transportation Advisory Committee, also known as the "CTAC", that is to be composed of designated members of the cabinet, the Cabinet for Health ***and Family*** Services[~~, the Cabinet for Families and Children,~~] and the Workforce Development Cabinet.

(2) Members of the CTAC shall serve terms as determined by each respective cabinet. The CTAC shall meet at least once a month, but may meet more frequently if desired, and shall maintain a written record of all meetings and actions taken. In all proceedings of the CTAC and in all actions taken by the CTAC, the cabinet, the Cabinet for Health ***and Family*** Services[~~, and the Cabinet for Families and Children~~] shall each have two (2) votes and the Workforce Development Cabinet shall have one (1) vote. A quorum of the CTAC shall be required to conduct any official business.

(3) The staff of the cabinet's Office of Transportation Delivery shall provide administrative support to the CTAC. The executive director of the Office of Transportation Delivery shall set the agenda for meetings of the CTAC. The Office of Transportation Delivery may promulgate administrative regulations under KRS Chapter 13A governing the human service transportation delivery program on behalf of the CTAC. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify the duties and responsibilities of the CTAC.

Section 64. KRS 281.872 is amended to read as follows:

(1) The cabinet shall employ a pool of program coordinators. Each program coordinator shall be a state employee and reside in the cabinet.

(2) The program coordinator shall initially investigate all complaints regarding recipients, subcontractors, and the broker for the area and attempt to immediately resolve the problem. All complaints relating to Medicaid fraud or abuse shall be forwarded by the cabinet to the Cabinet for Health ***and Family*** Services. The program coordinator shall further be responsible for assisting a person with a complaint as required in subsection (4) of this section.

(3) The program coordinator shall investigate issues of eligibility that result in a person being denied transportation, determine the status of the person's case, and attempt to immediately resolve the matter in order for the person to continue to receive transportation services. A broker shall not deny any person transportation services until the program coordinator resolves the question of the person's eligibility and verifies to the broker that the person is actually ineligible to receive transportation services. A broker who violates the provisions of this subsection shall be fined one thousand dollars ($1,000) and shall be subject to his or her contract being revoked by the cabinet. The program coordinator shall coordinate information about eligibility to participate in the human service transportation delivery program between the cabinet, the Cabinet for Health ***and Family*** Services,[~~ the Cabinet for Families and Children,~~] and the Workforce Development Cabinet. The cabinet shall ensure each program coordinator has direct computer access to all relevant databases used by all state agencies to administer the human service transportation delivery program. The Department for Medicaid Services shall provide each program coordinator with a monthly eligibility list for the area.

(4) If a program coordinator is unable to resolve a complaint against a broker or subcontractor to the satisfaction of the person lodging the complaint on the same business day the complaint is made, the program coordinator shall immediately act to assist the person in contacting the appropriate state agency to resolve the complaint. The program coordinator shall ensure that the cabinet, the Cabinet for Health ***and Family*** Services,[~~ the Cabinet for Families and Children,~~] and the Workforce Development Cabinet strictly adhere to the provisions of 42 C.F.R. governing a person's right to appeal the denial of service or failure for a complaint to be acted upon promptly. The cabinet shall be required to inform in writing, every person who has either been denied transportation or who has failed to have a complaint resolved in a prompt manner under the human service transportation delivery program, of their right to a hearing to be held in the county where the person lives, and the process to follow to obtain a hearing.

(5) All brokers and subcontractors shall be prohibited from retaliating or attempting retribution in any way against any person using the human service transportation delivery program who files a complaint. A broker or subcontractor who is determined by the cabinet to have violated the provisions of this subsection, after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination.

Section 65. KRS 309.308 is amended to read as follows:

(1) There is hereby created a committee to be known as the "Kentucky Board of Interpreters for the Deaf and Hard of Hearing Policy Committee."

(2) The committee shall consist of ***ten (10)***[~~eleven (11)~~] members as follows:

(a) The president or a designee of:

1. Kentucky Association of the Deaf; and

2. Kentucky Registry of Interpreters for the Deaf;

(b) A representative from:

1. Kentucky Commission on the Deaf and Hard of Hearing (KCDHH);
2. Eastern Kentucky University Interpreter Training Program;
3. Kentucky Department of Education;
4. Kentucky Department of Vocational Rehabilitation;
5. Kentucky School for the Deaf; ***and***

6.[~~ Cabinet for Families and Children; and~~

~~7.~~] Cabinet for Health ***and Family*** Services; and

(c) Two members-at-large, who are consumers, appointed by the board.

(3) The members of the committee shall receive no compensation for their services on the committee. The member from the Kentucky Association of the Deaf, the member from the Kentucky Registry of Interpreters for the Deaf, and the members-at-large shall be reimbursed for actual and necessary expenses incurred in the performance of their committee duties.

Section 66. KRS 346.200 is amended to read as follows:

(1) There is established in the State Treasury the sexual assault victim assistance fund to be administered by the Crime Victims' Compensation Board for the purpose of funding medical examinations for victims of sexual assault as provided in subsection (4) of this section and in KRS 216B.400. All moneys deposited or paid into the sexual assault victim assistance fund are appropriated and shall be available to the Crime Victims' Compensation Board. Funds shall be disbursed by the State Treasurer upon the warrant of the Crime Victims' Compensation Board.

(2) The sexual assault victim assistance fund may receive state general fund appropriations, gifts, grants, federal funds, or other public or private funds or donations. Any federal matching funds received by the board or the crime victims' compensation fund for sexual assault victim assistance payments shall be deposited into the sexual assault victim assistance fund.

(3) Any unencumbered or unallocated balances in the sexual assault victim assistance fund shall be invested as provided in KRS 42.500(9). Any income earned from investment, along with the unallocated or unencumbered balances in the fund, shall not lapse and shall be deemed a trust and agency account available solely for the purposes specified in subsection (1) of this section.

(4) (a) For the purposes of this section, a children's advocacy center is a center as defined in KRS 620.020 that operates consistent with administrative regulations promulgated by[~~ the Cabinet for Families and Children and~~] the Cabinet for Health ***and Family*** Services.

(b) Upon receipt of a completed original claim form supplied by the board and itemized bill for a child sexual abuse medical examination performed at a children's advocacy center, the board shall reimburse the children's advocacy center for actual costs up to but not exceeding the amount of reimbursement established through administrative regulation promulgated by the Department for Medicaid Services.

(c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation as proof that the medical examination was performed.

(5) If sexual assault victim assistance funds are insufficient to pay claims under subsection (4) of this section or KRS 216B.400, payment shall be made from the Crime Victims' Compensation Fund.

Section 67. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

  1. Any individual employed in agriculture;
  2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;
  3. Any individual employed by the United States;
  4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
  5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
  6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;
  7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
  8. Any individual engaged in the delivery of newspapers to the consumer;
  9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
  10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;
  11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for ***Health and Family Services***[~~Families and Children~~] under KRS 199.640 to 199.670; or
  12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health ***and Family*** Services[~~or the Cabinet for Families and Children~~] to provide adult foster care.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 68. KRS 403.700 is amended to read as follows:

(1) The[~~ Governor's~~] Council on Domestic Violence and Sexual Assault is created and established for the purpose of planning and direction of legal, protection, and support services related to domestic violence and sexual assault, and to increase the awareness of all Kentuckians regarding the prevalence and impact of these crimes.

(2) Members of the council shall include:

(a) The Attorney General or a designee;

(b)[~~ The secretary of the Cabinet for Families and Children or a designee;~~

~~(c)~~] The secretary of the Cabinet for Health ***and Family*** Services or a designee;

(c)[~~(d)~~]The secretary of the Justice Cabinet or a designee;

(d)[~~(e)~~]The public advocate or a designee;

(e)[~~(f)~~] The executive director of the ***Division***[~~Governor's Office~~] of Child Abuse and Domestic Violence Services;

(f)[~~(g)~~] The executive director of the Kentucky Criminal Justice Council;

(g)[~~(h)~~] The executive director of the Commission on Women;

(h)[~~(i)~~] At the direction of the Chief Justice of the Supreme Court, the director of the Administrative Office of the Courts;

(i)[~~(j)~~] One (1) Circuit Court Judge, one (1) family court judge, and one (1) District Court Judge, who shall be appointed by the Chief Justice of the Supreme Court;

(j)[~~(k)~~] The executive director of the Kentucky Domestic Violence Association;

(k)[~~(l)~~] The president of the Kentucky Domestic Violence Association or a designee;

(l)[~~(m)~~] The executive director of the Kentucky Association of Sexual Assault Programs;

(m)[~~(n)~~] The president of the Kentucky Association of Sexual Assault Programs or a designee;

(n)[~~(o)~~] Two (2) members of the Senate who shall be appointed by the President of the Senate;

(o)[~~(p)~~] Three (3) members of the House of Representatives who shall be appointed by the Speaker of the House; and

(p)[~~(q)~~] The following members, who shall be appointed by the ***secretary***[~~Governor~~]. To be eligible for appointment under this paragraph, a person shall have an understanding of, and demonstrated commitment to, addressing crimes involved in domestic or sexual violence:

1. One (1) county attorney;
2. One (1) Commonwealth's attorney;
3. One (1) Circuit Court Clerk;

4. One (1) sheriff;
5. One (1) peace officer;
6. Two (2) representatives of local domestic violence coordinating councils or sexual assault response teams;
7. One (1) advocate for adult victims of domestic or sexual violence;
8. One (1) advocate for child witnesses of domestic or sexual violence;
9. One (1) physician;
10. One (1) sexual assault nurse examiner;
11. One (1) mental health professional with demonstrated expertise in treating offenders;
12. One (1) employee of the Department for Community Based Services who provides direct services to victims of domestic violence;
13. One (1) person employed as a probation or parole officer; and
14. Two (2) citizen at-large members.

(3) The ***secretary***[~~Governor~~] shall appoint two (2) co-chairs and two (2) vice chairs of the council. One (1) of the vice chairs shall be a council member who is a criminal justice professional. The co-chairs and vice chairs shall serve for a term of one (1) year after which they may be reappointed by the ***secretary***[~~Governor~~].

(4) Council members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment. Members shall not serve longer than two (2) consecutive four (4) year terms.

(5) The council shall establish an executive committee, the membership of which shall be named by the co-chairs of the council.

(6) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Promoting coordination among agencies and officials responsible for addressing domestic violence and sexual assault;

(b) Determining the availability of services for victims, children who witness domestic violence or sexual assault, and offenders;

(c) Facilitating the development of local domestic violence councils and sexual assault response teams that shall include publication of model protocols, training, and technical assistance;

(d) Promoting community awareness and the prevention of domestic and sexual violence;

(e) Providing assistance to the Attorney General, the Administrative Office of the Courts, the Justice Cabinet,[~~ the Cabinet for Families and Children,~~] and the Cabinet for Health ***and Family*** Services in the development of training curricula, treatment programs, and model policies related to domestic violence and sexual assault;

(f) Reviewing and analyzing data and information relating to domestic violence and sexual assault from existing sources including, but not limited to, the Kentucky State Police,[~~ the Cabinet for Families and Children,~~] the Cabinet for Health ***and Family*** Services, the Department of Corrections, and the Administrative Office of the Courts;

(g) Recommending to the appropriate entity changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards relating to domestic violence and sexual assault; and

(h) Preparing a biennial report to be submitted no later than July 1 of every odd-numbered year to the Governor, the Legislative Research Commission, and the Chief Justice of the Supreme Court.

(7) The council shall establish any committees necessary to carry out its duties.

(8) The council shall be attached to the ***Division***[~~Governor's Office~~] of Child Abuse and Domestic Violence Services for administrative purposes. Members of the council shall be eligible to receive actual and reasonable travel expenses.

(9) The secretary of the Justice Cabinet ***and***[~~,~~] the secretary of the Cabinet for Health ***and Family*** Services[~~, and the secretary of the Cabinet for Families and Children~~] shall provide the necessary staff to assist the council in carrying out its duties and responsibilities.

Section 69. KRS 403.707 is amended to read as follows:

(1) The[~~ Governor's~~] Council on Domestic Violence and Sexual Assault shall create a Sexual Assault Response Team Advisory Committee.

(2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the executive director of the Kentucky Association of Sexual Assault Programs and the commissioner of the Kentucky State Police or the commissioner's designee.

(3) The membership of the Sexual Assault Response Team Advisory Committee shall consist of the following:

(a) The executive director of the Kentucky Board of Nursing or the executive director's designee;

(b) The executive director of the Kentucky Nurses Association or the executive director's designee;

(c) The executive director of the Kentucky Hospital Association or the executive director's designee;

(d) The director of the Kentucky State Police Crime Lab;

(e) The chief medical examiner or the chief medical examiner's designee;

(f) The executive director of the ***Division***[~~Governor's Office~~] of Child Abuse and Domestic Violence Services or the executive director's designee;

(g) The director of the Victims' Advocacy Division of the Office of the Attorney General or the director's designee;

(h) A sexual assault nurse examiner serving on the Governor's Council on Domestic Violence and Sexual Assault;

(i) A representative from a sexual assault response team serving on the[~~ Governor's~~] on Domestic Violence and Sexual Assault;

(j) A physician appointed by the co-chairs of the[~~ Governor's~~] Council on Domestic Violence and Sexual Assault; and

(k) A Commonwealth's attorney or an assistant Commonwealth's attorney appointed by the co-chairs of the[~~ Governor's~~] Council on Domestic Violence and Sexual Assault.

(4) Members appointed under paragraphs (h) to (k) of subsection (3) shall serve at the pleasure of the appointing authority and shall not serve longer than four (4) years without reappointment.

(5) The Sexual Assault Response Team Advisory Committee shall:

(a) Serve in an advisory capacity to the Kentucky Board of Nursing in accomplishing the duties set forth under KRS 314.142;

(b) Serve in an advisory capacity to the chief medical examiner in the development of the statewide sexual assault protocol required under KRS 216B.400(4);

(c) Develop a model protocol for the operation of sexual assault response teams which shall include the roles of sexual assault nurse examiners, physicians, law enforcement, prosecutors, and victim advocates;

(d) Provide information and recommendations concerning the activities of the agency or organization represented by each individual committee member as related to sexual assault issues and programs within the purview of the agency or organization; and

(e) Recommend to the[~~ Governor's~~] Council on Domestic Violence and Sexual Assault any changes in statute, administrative regulation, training, policy, and budget to promote a multidisciplinary response to sexual assault.

Section 70. KRS 431.650 is amended to read as follows:

(1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.

(2) The commission shall be comprised of the following members:

(a) The commissioner of the Department for Community Based Services or a designee;

(b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;

(c) One (1) social service worker who is employed by the Department for Community Based Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for Health ***and Family*** Services;

(e) The commissioner of the Kentucky State Police or a designee;

(f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice Cabinet;

(g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;

(h) Two (2) employees of the Attorney General's Office who shall be appointed by the Attorney General;

(i) One (1) Commonwealth's attorney who shall be appointed by the Attorney General;

(j) The commissioner of the Department of Education or a designee;

(k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education;

(l) The executive director of the ***Division***[~~Governor's Office~~] of Child Abuse and Domestic Violence Services or a designee;

(m) One (1) representative of a children's advocacy center who shall be appointed by the Governor;

(n) One (1) physician appointed by the Governor; and

(o) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.

(3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The commission shall elect a chairperson annually from its membership.

Section 71. KRS 620.045 is amended to read as follows:

(1) The secretaries of the Cabinet for ***Health and Family Services***[~~Families and Children, the Cabinet for Health Services,~~] and the Justice Cabinet are authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional children's advocacy centers.

(2) To be eligible for grants from any state government entity, a children's advocacy center shall meet the statutory definition of a children's advocacy center as provided in this chapter and shall operate consistent with administrative regulations promulgated by the Cabinet for ***Health and Family Services***[~~Families and Children~~] in accordance with KRS Chapter 13A.

Section 72. KRS 2.240 is amended to read as follows:

(1) The fourth week of April of each year is designated as Organ Donor Awareness Week, and the Governor shall annually issue a proclamation inviting and urging the people of the Commonwealth to be involved with appropriate activities. This observance is created to educate the citizens of the Commonwealth about the importance of organ donation.

(2) As part of Organ Donor Awareness Week, the Governor and the House of Representatives and the Senate of the General Assembly shall honor those persons who have donated organs and surviving family members with a ceremony in the Capitol rotunda. Each person who has donated an organ shall be recognized collectively by citation and, upon request, the person or the person's family shall be given a copy of the citation. The Governor may establish an organ donor honor board to collect the name of each person, subject to the person's consent, who donates an organ in the Commonwealth during the year, and to recognize medical professionals, educators, volunteers, public employees, and private organizations that are involved with the organ donation process. Nothing in this section shall be construed to require reporting of the name of any person involved with the organ donation process or to supersede patient confidentiality protections established by statute, the Board of Medical Licensure or other state entity, or the Federal Health Insurance Portability and Accountability Act.

(3) Education efforts are encouraged to focus on the importance of organ donation and its significance with saving the lives of Kentuckians. The Cabinet for Health ***and Family*** Services is encouraged to develop and circulate materials relating to organ donation.

Section 73. KRS 7.111 is amended to read as follows:

(1) The Kentucky State Police, Department of Corrections, the Department of Juvenile Justice, the Cabinet for Health ***and Family*** Services, and the Administrative Office of the Courts shall provide access to their databases and the centralized criminal history record information system and the data contained therein to other criminal justice agencies, including criminal justice statistical analysis centers, and to the Legislative Research Commission. The right of access granted herein shall not include the right to add to, delete, or alter data without permission of the agency holding the data.

(2) Criminal justice agencies and the Legislative Research Commission shall not make public information on an individual person's criminal history record where such record is protected by state or federal law or regulation.

(3) The Legislative Research Commission shall have access to information which does not identify an individual person when determined by the director of the Legislative Research Commission to be necessary for a legislative purpose.

(4) The Legislative Research Commission shall have access to individual persons' criminal history records subject to the following provisions:

  (a) Access shall not include information on federal offenses or convictions;

  (b) Access shall not include information on out-of-state convictions; and

  (c) Requests for the release of the information shall be approved by the Legislative Research Commission by vote at a meeting of the Commission.

Section 74. KRS 11.5163 is amended to read as follows:

(1) The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for

review and recommendation by the committee, and the committee shall forward the plans to the chief information officer for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.

(3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the chief information officer, the Governor's Office for Policy and Management, and the General Assembly.

(4) The chief information officer shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.

(5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, Governor's Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Division of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office for Security Coordination, Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health ***and Family*** Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(6) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(7) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(8) The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(9) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of

the Kentucky Wireless Interoperability Executive Committee.

(10) The committee may establish additional working groups as determined by the committee.

Section 75. KRS 12.334 is amended to read as follows:

(1) KY-ASAP shall establish in each county a local tobacco addiction and alcohol and substance abuse advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse prevention, cessation, and treatment, although a single board may be established for multiple counties to ensure a comprehensive range of services. The board shall assist with the coordination of programs provided by public and private entities. If the existing programs of private service providers are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers. The Cabinet for Health ***and Family*** Services shall support the communities' efforts.

(2) KY-ASAP shall consult with community leaders to solicit the names of residents from the community to serve on each advisory and coordination board. KY-ASAP shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and KY-ASAP shall supply information as necessary to the advisory and coordination board to enable it to carry out its functions.

(3) KY-ASAP shall provide incentives to encourage multicounty advisory and coordination board requests and shall establish a single board to represent all counties making the request. Priority in establishing a board shall be given to existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.

(4) Each advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and promote effective treatment of substance abuse. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.

(a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.

(b) An assessment of needs and available services shall be included in the strategy.

Section 76. KRS 15.055 is amended to read as follows:

(1) The Office of the Attorney General shall receive from the Cabinet for ***Health and Family Services***[~~Families and Children~~] a list of names of delinquent obligors as defined in administrative regulations promulgated under this section.

(2) The Office of the Attorney General in cooperation with the Cabinet for ***health and Family Services***[~~Families and Children~~] shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

(3) The Office of the Attorney General shall:

(a) Publish and update the list on an appropriate agency Internet site; and

(b) Distribute to all designees of the cabinet for the administration of the child support program, a "most wanted" poster that includes names, and photos if available, of delinquent obligors whose whereabouts are unknown or unverified, or who if known, refuse to meet their child support obligations. The poster shall be posted locally by the designee of the cabinet for the administration of the child support program in public locations.

Section 77. KRS 15.113 is amended to read as follows:

(1) The Financial Integrity Enforcement Division is created in the Department of Law. The division shall:

(a) Investigate illegal redemption of food stamp benefits in cooperation with the United States Department of Agriculture and the Cabinet for ***health and Family Services***[~~Families and Children~~];

(b) Verify eligibility of food stamp program applicants as to past criminal history;

(c) Investigate the illegal distribution of counterfeit merchandise; and

(d) Investigate the use of personal identification and financial information by persons for the purpose of theft, or fraud, or both theft and fraud, and other illegal or fraudulent activity which may involve electronic commerce.

(2) The Office of the Attorney General shall coordinate with the Department of Financial Institutions, the United States Secret Service, the Federal Trade Commission, the Kentucky Bankers' Association, and any other agency or organization to prepare and disseminate information to prevent identity theft.

Section 78. KRS 15.241 is amended to read as follows:

The Attorney General, upon certification by the secretary of the Cabinet for Health ***and Family*** Services, shall seek injunctive relief in a course of proper jurisdiction to prevent violations of the provisions of KRS Chapter 216B regarding abortion facilities or the administrative regulations promulgated in furtherance thereof in cases where other administrative penalties and legal sanctions imposed have failed to prevent or cause a discontinuance of the violation.

Section 79. KRS 15.290 is amended to read as follows:

(1) There is hereby established in the Department of Law the Child Support Enforcement Commission which shall consist of nine (9) members as prescribed below:

(a) The Attorney General, or a designee, who shall also serve as chairman;

(b) The secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~], or his designee, who shall also serve as vice chairman;

(c) The director of the Administrative Office of the Courts, or his designee;

(d) The director of the Division of Child Support within the Cabinet for ***Health and Family Services***[~~Families and Children~~]; and

(e) The remaining five (5) members shall be appointed by the Governor for terms of four (4) years, except that the initial appointments shall be made in the following manner: One (1) member for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Each member shall serve until a successor is named and any appointment, due to vacancy, shall be for the unexpired term. The remaining five (5) members shall be appointed in the following manner: three (3) members from a list of nine (9) nominees submitted by the Kentucky County Attorney Association, with one (1) of the three members representing either a first class or urban-county government, and two (2) citizen-at-large members.

(2) The secretary of the cabinet shall reimburse to the Department of Law such an amount as incurred related to the function of the commission. The secretary shall provide such information as may be requested by the commission.

(3) The commission shall meet at least quarterly and may meet additional times as may be deemed necessary by the chairman.

(4) Reimbursement for actual travel expenses shall be paid by the Department of Law for commission members, if members are not otherwise eligible for such reimbursement from their respective agency.

(5) The commission shall have the following responsibilities:

(a) Advise the Governor on any issue related to the child-support program;

(b) Advise the Cabinet for ***Health and Family Services***[~~Families and Children~~] on any issue related to the child-support program;

(c) Advise the Department of Law on any issue related to the child-support program;

(d) Advise the Administrative Office of the Courts on any issue related to the child-support program;

(e) Provide a regular forum for all parties involved in the child-support program to address any aspect of the administrative or judicial process;

(f) Develop and prepare reports and recommendations related to administrative procedures, prosecution, judicial procedures, state or federal legislation; or any other matters which might improve program effectiveness and efficiency; and

(g) Initiate recommendations to facilitate interaction between local officials and the cabinet.

(6) The commission shall prepare and issue an annual report not later than August 15 of each year for the preceding fiscal year which includes a performance assessment for all aspects of the program. The report shall include recommendations to improve performance and service delivery. The report shall be submitted to the Governor and the Legislative Research Commission. The first report shall be due August 15, 1989.

(7) Nothing in this section shall be construed as modifying the designation of the single state agency as required under the Federal Title IV-D plan.

Section 80. KRS 15.300 is amended to read as follows:

(1) As used in this section, "consent order" means the consent order of December 21, 1998, agreed to in Commonwealth of Kentucky v. Philip Morris Inc. et al., Docket Number 98-CI-01579, Franklin Circuit Court.

(2) There is created the Tobacco Master Settlement Agreement Compliance Advisory Board in the Department of Law. The board shall be composed of six (6) members as follows:

(a) The Attorney General, or the Attorney General's designee;

(b) The secretary of the Cabinet for Health ***and Family*** Services, or the secretary's designee;

(c) The Commissioner of Agriculture, or the Commissioner's designee;

(d) The secretary of the Public Protection and Regulation Cabinet, or the secretary's designee; and

(e) Two (2) citizens at large appointed by the Attorney General.

(3) The citizen members of the board shall serve for terms of one (1) year and until their successors are appointed. The citizen members shall be eligible for successive terms on the board.

(4) The board shall annually elect a member to serve as its chair and shall meet at least quarterly on a date set by the board. Board members shall be reimbursed for necessary expenses incurred in serving on the board.

(5) The board may adopt rules governing the conduct of its meetings, the creation of meeting agendas, and other procedural matters it deems necessary. The board may adopt reporting forms, which shall be developed in consultation with

participating agencies.

(6) The Office of the Attorney General shall:

(a) Enter into a memorandum of agreement with the Department of Public Health of the Cabinet for Health ***and Family*** Services, the Alcoholic Beverage Control in the Public Protection and Regulation Cabinet, and the Department of Agriculture to identify and report possible violations of the consent order;

(b) Attempt to secure funding under the master settlement agreement to reimburse the agencies specified in paragraph (a) of this subsection for any compliance activity that they perform; and

(c) Provide necessary funding and staff for administrative expenses related to the operation of the board. The board may request assistance from other state agencies.

(7) The Tobacco Master Settlement Agreement Compliance Advisory Board shall:

(a) Identify activities for which training is required for personnel of the state agencies specified in paragraph (a) of subsection (6) of this section that are responsible for identifying and reporting possible violations of the consent order;

(b) Determine eligible compliance training costs and seek reimbursement for the costs; and

(c) Notify the appropriate tobacco manufacturer, in writing, of any alleged violation of the consent order and request a response and, if applicable, a corrective action plan within thirty (30) days from the date of the notice. If the manufacturer fails to respond or to satisfactorily resolve the matter, the board shall review the matter at its next meeting and may refer the matter to the Office of the Attorney General for enforcement action, if warranted.

Section 81. KRS 15.333 is amended to read as follows:

(1) The Kentucky Law Enforcement Council shall develop in conjunction with the Cabinet for ***Health and Family Services***[~~Families and Children~~] an educational program on human immunodeficiency virus infection and acquired immunodeficiency virus syndrome of not more than four (4) hours to be delivered by the Department of Criminal Justice Training to all law enforcement officers subject to the provisions of KRS 15.440 or 61.300. The educational program shall be completed annually.

(2) The educational program may be a part of any continuing education program offered by the Department of Criminal Justice Training.

Section 82. KRS 15.706 is amended to read as follows:

(1) The Prosecutors Advisory Council shall collect statistical data regarding the investigation, prosecution, dismissal, conviction, or acquittal of any person charged with committing, attempting to commit, or complicity to a sexual offense defined by KRS Chapter 510 involving a minor, incest involving a minor, use of a minor in a sexual performance, or unlawful transaction with a minor.

(2) Each Commonwealth's attorney, each county attorney, the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~], the commissioner of the Kentucky State Police, each Circuit Court clerk, and the Administrative Office of the Courts shall provide any data requested by the council for this purpose, on a form prescribed by the council, at intervals as the council may direct.

(3) The council may contract with any other public agency to collect the data in lieu of collecting the data itself.

(4) The Prosecutors Advisory Council may promulgate administrative regulations to specify information to be reported.

(5) The information required to be reported by this section shall be provided by each Commonwealth's attorney and county attorney at the end of each quarter of the calendar year or as otherwise directed by the Prosecutors Advisory Council.

(6) The Prosecutors Advisory Council and the Office of the Attorney General shall compile the information by county and issue a public report at least annually.

(7) The public report shall not contain the name or identifying information of a victim or person not formally charged with the commission of child sexual abuse. Information collected by the Commonwealth's attorney or county attorney or by the Prosecutors Advisory Council containing data which cannot be published shall be excluded from inspection, unless by court order, from the Open Records Law.

(8) Any Commonwealth's attorney or any county attorney who fails to report information as defined by this section or administrative regulation shall be subject to salary reduction as authorized by KRS 61.120.

Section 83. KRS 15.910 is amended to read as follows:

(1) The state board shall be composed of the following members:

(a) The secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~], the secretary of the Finance and Administration Cabinet, the chief state school officer, the commissioner of the State Police, and the Attorney General, or designees authorized to speak on their behalf; and

(b) Ten (10) public members appointed by the Governor. It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services.

(2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The Attorney General shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the Attorney General. The state board may elect other officers and committees as it considers appropriate.

(4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employees. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in KRS 15.935.

Section 84. KRS 15.942 is amended to read as follows:

The Justice Cabinet, the Attorney General, the Administrative Office of the Courts, and the Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall develop a training plan for investigation of child sexual abuse cases and protection of child sexual abuse victims within the Commonwealth. They may seek assistance from any educational, legal, and mental and physical health-care professionals needed for implementation of training programs.

Section 85. KRS 15A.065 is amended to read as follows:

(1) The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:

(a) Prevention of juvenile crime;

(b) Identification of juveniles at risk of becoming status or public offenders and development of early intervention strategies for these children, and, except for adjudicated youth, participation in prevention programs shall be voluntary;

(c) Providing educational information to law enforcement, prosecution, victims, defense attorneys, the courts, the educational community, and the public concerning juvenile crime, its prevention, detection, trial, punishment, and rehabilitation;

(d) The operation of or contracting for the operation of postadjudication treatment facilities and services for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(e) The operation or contracting for the operation, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;

(f) Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;

(g) Conducting research and comparative experiments to find the most effective means of:

1. Preventing delinquent behavior;

2. Identifying predelinquent youth;

3. Preventing predelinquent youth from becoming delinquent;

4. Assessing the needs of predelinquent and delinquent youth;

5. Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth and youthful offenders;

6. Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and

(h) Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.

(2) The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.

(3) The Department of Juvenile Justice may contract for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments. The department shall, after consultation with the Finance and Administration Cabinet, promulgate administrative regulations to govern at least the following aspects of this subsection:

(a) Bidding process; and

(b) Emergency acquisition process.

(4) The Department of Juvenile Justice shall develop programs to:

(a) Ensure that youth in state-operated or contracted residential treatment programs have access to an ombudsman to whom they may report program problems or concerns;

(b) Review all treatment programs, state-operated or contracted, for their quality and effectiveness; and

(c) Provide mental health services to committed youth according to their needs.

(5) (a) The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall serve as the advisory group under the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, as amended, and which shall provide a formulation of and recommendations for meeting the requirements of this section not less than annually to the Governor, the Justice Cabinet, the Department of Juvenile Justice, the Cabinet for ***Health and Family Services***[~~Families and Children~~], the Interim Joint Committees on Judiciary and on Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and the Appropriations and Revenue Committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion, and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. The advisory board shall review grant applications from local juvenile delinquency prevention councils and include in its annual report the activities of the councils. The advisory board shall meet not less than quarterly.

(b) The advisory board shall be chaired by a private citizen member appointed by the Governor and shall serve a term of two (2) years and thereafter be elected by the board. The members of the board shall be appointed to staggered terms and thereafter to four (4) year terms. The membership of the advisory board shall consist of no fewer than fifteen (15) persons and no more than thirty-three (33) persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice. A majority of the members shall not be full-time employees of any federal, state, or local government, and at least one-fifth (1/5) of the members shall be under the age of twenty-four (24) years at the time of appointment. On July 15, 2002, any pre-existing appointment of a member to the Juvenile Justice Advisory Board and the Juvenile Justice Advisory Committee shall be terminated unless that member has been re-appointed subsequent to January 1, 2002, in which case that member's appointment shall continue without interruption. The membership of the board shall include the following:

1. Three (3) current or former participants in the juvenile justice system;
2. An employee of the Department of Juvenile Justice;
3. An employee of the Cabinet for ***Health and Family Services***[~~Families and Children~~];
4. A person operating alternative detention programs;
5. An employee of the Department of Education;
6. An employee of the Department of Public Advocacy;
7. An employee of the Administrative Office of the Courts;
8. A representative from a private nonprofit organization with an interest in youth services;
9. A representative from a local juvenile delinquency prevention council;
10. A member of the Circuit Judges Association;
11. A member of the District Judges Association;
12. A member of the County Attorneys Association;
13. A member of the County Judge/Executives Association;
14. A person from the business community not associated with any other group listed in this paragraph;
15. A parent not associated with any other group listed in this paragraph;
16. A youth advocate not associated with any other group listed in this paragraph;
17. A victim of a crime committed by a person under the age of eighteen (18) not associated with any other group listed in this paragraph;
18. A local school district special education administrator not associated with any other group listed in this paragraph;
19. A peace officer not associated with any other group listed in this paragraph; and
20. A college or university professor specializing in law, criminology, corrections, psychology, or similar discipline with an interest in juvenile corrections programs.

(c) Failure of any member to attend three (3) meetings within a calendar year shall be deemed a resignation from the board. The board chair shall notify the Governor of any vacancy and submit recommendations for appointment.

(6) The Department of Juvenile Justice shall, in cooperation with the Department of Public Advocacy, develop a program of legal services for juveniles committed to the department who are placed in state-operated residential treatment facilities and juveniles in the physical custody of the department who are detained in a state-operated detention facility, who have legal claims related to the conditions of their confinement involving violations of federal or state statutory or constitutional rights. This system may utilize technology to supplement personal contact. The Department of Juvenile Justice shall promulgate an administrative regulation to govern at least the following aspects of this subsection:

(a) Facility access;

(b) Scheduling; and

(c) Access to residents' records.

(7) The Department of Juvenile Justice may, if space is available and conditioned upon the department's ability to regain that space as needed, contract with another state or federal agency to provide services to youth of that agency.

Section 86. KRS 15A.190 is amended to read as follows:

(1) The Justice Cabinet in consultation with the Cabinet for ***Health and Family Services***[~~Families and Children~~], the Kentucky Commission on Women, and any other agency concerned with particular acts of criminal activity, shall design, print, and distribute to all law enforcement agencies in the Commonwealth, a uniform reporting form which provides statistical information relating to the crimes involving domestic violence, child abuse, victimization of the elderly, or any other particular area of criminal activity deemed by the secretary of justice to require research as to its frequency.

(2) The provision of subsection (1) of this section concerning the distribution of forms shall become effective on January 1, 1979.

Section 87. KRS 15A.310 is amended to read as follows:

(1) The Department of Juvenile Justice, the Cabinet for Health ***and Family*** Services, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements for juveniles that are needed for the development of the centralized criminal history record information system.

(2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.

(3) The Department of Juvenile Justice shall provide access to Commonwealth's attorneys, county attorneys, law enforcement agencies, the Kentucky State Police, the Department of Corrections, the Cabinet for Health ***and Family*** Services, and the Administrative Office of the Courts to its database.

Section 88. KRS 16.095 is amended to read as follows:

(1) The Justice Cabinet shall require all officers employed by them to complete an educational course approved by the Cabinet for Health ***and Family*** Services on human immunodeficiency virus infection and acquired immunodeficiency syndrome. The Justice Cabinet shall develop literature on the human immunodeficiency virus infection and acquired immunodeficiency syndrome and a training curriculum of not more than four (4) hours for the instruction of officers. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. This training may be part of any other training required and for which law enforcement officers receive an allowance to attend. However, nonreceipt of allowance does not exclude a law enforcement officer from the training required in this section.

(2) All officers shall successfully complete the training required. Any person holding the position of officer shall not exercise that position for more than one (1) year without successfully completing the required training. If an officer does not successfully complete the required training within the time specified, he shall be suspended from further service as an officer until he successfully completes the required training.

Section 89. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies and the courts. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set by the Governor's Office for Technology are required, the Commonwealth's chief information officer shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health ***and Family*** Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the Governor's chief information officer, who shall chair the committee.

(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for

promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.

(5) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.

(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.

(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.

(8) All criminal justice agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(9) The committee shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the committee.

(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the committee.

(11) Any criminal justice agency or officer that does not participate in the criminal justice information system may be denied access to state and federal grant funds.

Section 90. KRS 17.151 is amended to read as follows:

The Kentucky State Police shall, in cooperation with the Administrative Office of the Courts, the Department of Juvenile Justice, the Cabinet for Health ***and Family*** Services, and the Department of Corrections, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;

(2) The Kentucky State Police shall provide access to the Administrative Office of the Courts, the Department of Juvenile Justice, the Cabinet for Health ***and Family*** Services, and the Department of Corrections to its database; and

(3) The Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health ***and Family*** Services, and the Department of Corrections shall assign the same identification number or other variable to each person whose name appears in the database.

Section 91. KRS 17.152 is amended to read as follows:

All data supplied to the centralized criminal history record information system by the Kentucky State Police, Administrative Office of the Courts, the Department of Juvenile Justice, the Cabinet for Health ***and Family*** Services, and the Department of Corrections shall be compatible with the system and shall contain both citation and personal identification numbers.

Section 92. KRS 17.165 is amended to read as follows:

(1) As used in this section, "sex crime" means a conviction or a plea of guilty for a violation or attempted violation of KRS 510.040 to 510.140, 529.020 to 529.050, 530.020, 530.065, 531.310, 531.320, and 531.340 to 531.370. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

(2) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(3) As used in this section, "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(4) No child-care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, or direct contact with a minor, any person who is a violent offender or has been convicted of a sex crime. Each child-care center shall request all conviction information for any applicant for employment from the Justice Cabinet or the Administrative Office of the Courts prior to employing the applicant.

(5) No child-care provider that is required to be certified under KRS 199.8982 or that receives a public child-care subsidy

administered by the cabinet or an adult who resides on the premises of the child-care provider and has direct contact with a minor shall have been convicted of a violent crime, or a sex crime, or have been found by the Cabinet for ***Health and Family Services***[~~Families and Children~~] or a court to have abused or neglected a child.

(6) Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(7) Any request for records under subsection (4) of this section shall be on a form approved by the Justice Cabinet or the Administrative Office of the Courts, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(8) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988.

Section 93. KRS 17.460 is amended to read as follows:

(1) Upon notification by a parent, guardian, person exercising custodial control or supervision, or the authorized representative of the Department for Community Based Services of the Cabinet for ***Health and Family Services***[~~Families and Children~~] if the child is a ward of the state, that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the Justice Cabinet which shall include information the Justice Cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location, and known associates.

(2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky Missing Child Information Center computer and shall cause the report to be entered into the National Crime Information Center computer.

(3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.

(4) (a) Upon location of the missing child and verification of the National Crime Information Center entry, the law enforcement agency shall transport the child to the parent, guardian, or person exercising custodial control or supervision.

(b) If the child is a ward of the state, the law enforcement agency shall transport the child to the authorized representative of the Department for Community Based Services of the Cabinet for ***Health and Family Services***[~~Families and Children~~] in the jurisdiction of the law enforcement agency.

(c) If the law enforcement agency is unable to return the child to the appropriate caretaker pursuant to paragraph (a) of this subsection, the law enforcement agency shall contact the court-designated worker with jurisdiction for placement determination.

(d) If the child is in custody on a charge of committing an offense pursuant to KRS Chapters 600 to 645, the law enforcement agency shall proceed according to the provisions therein.

(5) Within twenty-four (24) hours after a missing child is located and returned to the appropriate caretaker pursuant to subsection (4) of this section, the law enforcement agency which transported, found, or returned the missing child shall notify both the Missing Child Information Center and the National Crime Information Center of that fact.

Section 94. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) (a) Any child-care center which violates KRS 17.165(4) or child-care provider that violates KRS 17.165(5) may be liable for license or certification revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the Cabinet for ***Health and Family Services***[~~Families and Children~~]; and

(b) In addition to penalties listed in this subsection, any child-care center which violates KRS 17.165(4) or child-care provider that violates KRS 17.165(5) shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

Section 95. KRS 18A.030 is amended to read as follows:

(1) The secretary shall be the executive and administrative head of the cabinet and shall supervise and control all examinations and work of the cabinet. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the secretary shall appoint and supervise the staff needed in the cabinet to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.

(2) Subject to the provisions of this chapter and KRS Chapter 13A, the secretary shall, with the aid of his staff:

  (a) Attend all meetings of the board;

  (b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

  (c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;

  (d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

  (e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;

  (f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

  (g) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;

  (h) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;

  (i) Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

  (j) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for in KRS 18A.005 to 18A.200;

  (k) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;

  (l) Make a report and submit the same to the board, the Legislative Research Commission, and the Governor not later than October first of each year; and

  (m) Discharge the other duties imposed upon him by KRS 18A.005 to 18A.200.

(3) The secretary on behalf of the cabinet may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

(4) The secretary shall keep records relative to employee turnover and report to the board, the Governor, and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division, and section. If any cabinet, department, bureau, division, or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the secretary shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor, and the Legislative Research Commission.

(5) The secretary shall provide to each new state employee and to each existing state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Health ***and Family*** Services and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures, and referral services.

Section 96. KRS 18A.180 is amended to read as follows:

(1) Subject to the approval of the board, the secretary may enter into agreements with any municipality or other political subdivision of the Commonwealth to furnish services and facilities of the cabinet to the municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the cabinet, under contract, of the reasonable cost of the services and facilities furnished, as determined by the secretary. All municipalities and political subdivisions of the Commonwealth are hereby authorized to enter into these agreements.

(2) The secretary may cooperate with the governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of KRS 18A.005 to 18A.200.

(3) The secretary may, upon the request of the secretary of the Cabinet for Health ***and Family*** Services and upon the approval of the board, furnish merit system services to "local" departments of health.

Section 97. KRS 23A.2065 is amended to read as follows:

In addition to the twenty dollar ($20) fee created by KRS 23A.206, in criminal cases a five dollar ($5) fee shall be added to the costs imposed by KRS 23A.205 that the defendant is required to pay. The fees collected under this section shall be allocated to the

Cabinet for Health ***and Family*** Services for the implementation and operation of a telephonic behavioral health jail triage system as provided in KRS 210.365 and 441.048.

Section 98. KRS 24A.1765 is amended to read as follows:

In addition to the twenty dollar ($20) fee created by KRS 24A.176, in criminal cases a five dollar ($5) fee shall be added to the costs imposed by KRS 24A.175 that the defendant is required to pay. The fees collected under this section shall be allocated to the Cabinet for Health ***and Family*** Services for the implementation and operation of a telephonic behavioral health jail triage system as provided in KRS 210.365 and 441.048.

Section 99. KRS 27A.080 is amended to read as follows:

(1) The Administrative Office of the Courts shall be the primary repository of court records of juveniles charged with, arrested for, and against whom complaints have been filed, involving status offenses, public offenses, and youthful offender proceedings, together with all court records of the handling and disposition of those cases, and shall keep and maintain these records.

(2) The Administrative Office of the Courts shall make juvenile records available to the agencies and persons specified by law.

(3) All courts, law enforcement agencies, prosecutors, the Department of Juvenile Justice, the Cabinet for ***Health and Family Services***[~~Families and Children~~], the Justice Cabinet, and other agencies holding records coming within the purview of subsection (1) of this section shall make them available to the Administrative Office of the Courts in the manner and at the times specified by the Administrative Office of the Courts.

Section 100. KRS 27A.300 is amended to read as follows:

The Administrative Office of the Courts shall, in cooperation with the Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health ***and Family*** Services, and the Department of Corrections, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information contained in KRS 27A.310 to 27A.440;

(2) The Administrative Office of the Courts shall provide access to the Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health ***and Family*** Services, and the Department of Corrections to its database; and

(3) The Administrative Office of the Courts shall, where the number is known, assign the same identification number or other variable to each person whose name appears in the database.

Section 101. KRS 31.110 is amended to read as follows:

(1) A needy person who is being detained by a law enforcement officer, on suspicion of having committed, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, or who is accused of having committed a public or status offense or who has been committed to the Department of Juvenile Justice or Cabinet for ***Health and Family Services***[~~Families and Children~~] for having committed a public or status offense as those are defined by KRS 610.010(1)(a), (b), (c), or (d) or 630.020(2) is entitled:

   (a) To be represented by an attorney to the same extent as a person having his own counsel is so entitled; and

   (b) To be provided with the necessary services and facilities of representation including investigation and other preparation. The courts in which the defendant is tried shall waive all costs.

(2) A needy person who is entitled to be represented by an attorney under subsection (1) of this section is entitled:

   (a) To be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his own counsel would be entitled to be represented by an attorney and including revocation of probation or parole;

   (b) To be represented in any appeal; and

   (c) To be represented in any other post-conviction, or, if a minor under the age of eighteen (18), post-disposition proceeding that the attorney and the needy person considers appropriate. However, if the counsel appointed in such post-conviction, or, if a minor under the age of eighteen (18), post-disposition remedy, with the court involved, determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his own expense, there shall be no further right to be represented by counsel under the provisions of this chapter.

(3) A needy person's right to a benefit under subsection (1) or (2) of this section is not affected by his having provided a similar benefit at his own expense, or by his having waived it, at an earlier stage.

(4) A person, whether a needy person or not, who is a minor under the age of eighteen (18) and who is in the custody of the Department of Juvenile Justice and is residing in a residential treatment center or detention center is entitled to be represented on a legal claim related to his or her confinement involving violations of federal or state statutory rights or constitutional rights.

Section 102. KRS 42.560 is amended to read as follows:

(1) There is established in the Treasury of the Commonwealth a trust fund to be known as the "Energy Assistance Trust Fund" referred to in KRS 42.560 to 42.572 as the "trust fund."

(2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price

controls on such products were in effect, any moneys as may be appropriated by the general fund, and any investment interest earned on the fund.

(3) The fund shall be managed by the state Office of Financial Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund and all accumulated interest shall be disbursed over a period of time not exceeding ten (10) years from February 19, 1988. Interest accumulated during the 1987-88 fiscal year shall immediately be available for disbursement. Fifty thousand dollars ($50,000) of the interest shall be allocated to the Legislative Research Commission for consultant costs for a study of energy conservation and weatherization programs as directed by the 1988 General Assembly. The remainder of the accumulated interest shall be made available to the Cabinet for ***Health and Family Services***[~~Families and Children~~] with fifty percent (50%) of the interest allocated to weatherization services to low-income households and fifty percent (50%) of the interest allocated to low-income energy assistance services. The funds to be available for expenditure in any fiscal year shall be appropriated by the General Assembly from the trust fund as provided in KRS 48.300.

Section 103. KRS 42.566 is amended to read as follows:

(1) The funds appropriated by the General Assembly shall be expended in a manner consistent with the judgments and settlements, as amended, which produced the oil overcharge refunds, as follows:

(a) The sum of five hundred thousand dollars ($500,000) or eight percent (8%) of the amount appropriated each fiscal year, whichever is greater, shall be distributed annually to the Natural Resources and Environmental Protection Cabinet for expenditure in the Institutional Conservation Program established pursuant to Part G of Title III of the Energy Policy and Conservation Act, 42 U.S.C. secs. 6371 et seq. The source of these funds shall be deemed to be the trust funds produced by the Stripper Well litigation, In Re Department of Energy Stripper Well Exemption Litigation, D.C. Kan., M.D.L. No. 378, and the Diamond Shamrock litigation, Diamond Shamrock Refining Co. v. Standard Oil of Indiana, D.C. Ind., Civil Action No. C-84-1432, and interest accumulated thereon.

(b) The balance of the trust funds appropriated for expenditure in any fiscal year shall be distributed to the Cabinet for ***Health and Family Services***[~~Families and Children~~] and allocated as follows:

1. Forty percent (40%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for weatherization of low-income households established pursuant to Part A of the Energy Conservation and Existing Buildings Act of 1976, 42 U.S.C. secs. 6861 et seq.; and

2. Sixty percent (60%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for energy crisis or prevention services for low-income households established pursuant to the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. secs. 8621 et seq.

Section 104. KRS 44.030 is amended to read as follows:

(1) No money shall be paid to any person on a claim against the state in his own right, or as an assignee of another, when he or his assignor is indebted to the state. The claim, to the extent it is allowed, shall be credited to the account of the person so indebted, and if there is any balance due him after settling the whole demand of the state that balance shall be paid to him.

(2) The Finance and Administration Cabinet shall provide the Cabinet for ***Health and Family Services***[~~Families and Children~~] with a quarterly report of all tort claims made against the state by individuals that the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall compare with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

(3) Each organizational unit and administrative body in the executive branch of state government, as defined in KRS 12.010, and the Court of Justice in the judicial branch of state government shall provide information to the State Treasurer concerning any debt it has referred to the Revenue Cabinet for collection under KRS 45.241.

(4) Each agency and the Court of Justice shall provide information to the State Treasurer concerning any debt referred to the Revenue Cabinet for collection under KRS 45.237.

Section 105. KRS 45.236 is amended to read as follows:

Notwithstanding the provisions of KRS 45.229 and notwithstanding any other provision of the Kentucky Revised Statutes, any unexpended or unencumbered balance of any Social Security appropriation, made available for expenditure by the Cabinet for ***Health and Family Services***[~~Families and Children~~] in the administration of its child welfare functions for the first fiscal year of each biennium, remaining at the end of that fiscal year, shall be carried forward and be available for expenditure at any time during the ensuing fiscal year within the biennium and no portion shall lapse to the general expenditure fund.

Section 106. KRS 45.850 is amended to read as follows:

(1) Appropriations for the capital construction and for the operating budget of a nuclear waste disposal site owned by the Commonwealth shall be set forth as a major program cost in the executive budget document for the Natural Resources and Environmental Protection Cabinet.

(2) Appropriations for the regulating and monitoring of a nuclear waste disposal site owned by the Commonwealth shall be set forth as a major program cost in the executive budget document for the Cabinet for Health ***and Family*** Services. Monitoring and water sampling and analyses shall be maintained and budgeted for at a level to provide frequent and

continuing evidence of the safety of the site.

(3) Operating costs associated with the daily maintenance of the site in excess of allocations budgeted to the Natural Resources and Environmental Protection Cabinet, regulating and monitoring costs associated with normal surveillance of the site in excess of allocations budgeted to the Cabinet for Health ***and Family*** Services, and costs associated with an emergency at the site so declared by the Governor shall be deemed necessary governmental expenses.

(4) In the event a request for funds is made pursuant to subsection (3) of this section, a copy of the request and the justification for additional funds shall be forwarded to the office of the Legislative Research Commission and to the Governor at the time the request is made but no later than fifteen (15) days prior to the actual expenditure of additional funds. The Legislative Research Commission or its designated subcommittee may request further explanation of the need for additional funds.

(5) Subsections (3) and (4) of this section shall apply only to sites located in the Commonwealth prior to July 15, 1980.

Section 107. KRS 45A.690 is amended to read as follows:

(1) As used in KRS 45A.690 to 45A.725:

(a) "Committee" means the Government Contract Review Committee of the Legislative Research Commission;

(b) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the Legislature, authorized by law to contract for personal services;

(c) "Governmental emergency" means an unforeseen event or set of circumstances that creates an emergency condition as determined by the committee by promulgation of an administrative regulation;

(d) "Memorandum of agreement" means any memorandum of agreement, memorandum of understanding, program administration contract, interlocal agreement to which the Commonwealth is a party, privatization contract, or similar device relating to services between a state agency and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources or responsibilities to carry out a governmental function. It includes agreements by regional cooperative organizations formed by local boards of education or other public educational institutions for the purpose of providing professional educational services to the participating organizations and agreements with Kentucky Distinguished Educators pursuant to KRS 158.782. This definition does not apply to:

1. Agreements between the Transportation Cabinet and any political subdivision of the Commonwealth for road and road-related projects;
2. Agreements between the Auditor of Public Accounts and any other governmental agency or political subdivision of the Commonwealth for auditing services;
3. Agreements between state agencies as required by federal or state law;
4. Agreements between state agencies and state universities or colleges and agreements between state universities or colleges and employers of students in the Commonwealth work-study program sponsored by the Kentucky Higher Education Assistance Authority;
5. Agreements involving child support collections and enforcement;
6. Agreements with public utilities, providers of direct Medicaid health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Health ***and Family*** Services, and transit authorities;
7. Nonfinancial agreements;
8. Any obligation or payment for reimbursement of the cost of corrective action made pursuant to KRS 224.60-140;
9. Exchanges of confidential personal information between agencies;
10. Agreements between state agencies and rural concentrated employment programs; or
11. Any other agreement that the committee deems inappropriate for consideration;

(e) "Multicontract" means a group of personal service contracts between a contracting body and individual vendors providing the same or substantially similar services to the contracting body that, for purposes of the committee, are treated as one (1) contract; and

(f) "Personal service contract" means an agreement whereby an individual, firm, partnership, or corporation is to perform certain services requiring professional skill or professional judgment for a specified period of time at a price agreed upon. It includes all price contracts for personal services between a governmental body or political subdivision of the commonwealth and any other entity in any amount. This definition does not apply to:

1. Agreements between the Department of Parks and a performing artist or artists for less than five thousand dollars ($5,000) per fiscal year per artist or artists;
2. Agreements with public utilities, foster care parents, providers of direct Medicaid health care to individuals

except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Health ***and Family*** Services, individuals performing homemaker services, and transit authorities;

3. Agreements between state universities or colleges and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;
4. Agreements between a state agency and rural concentrated employment programs;
5. Agreements between the State Fair Board and judges, officials, and entertainers contracted for events promoted by the State Fair Board; or
6. Any other contract that the committee deems inappropriate for consideration;

(2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense with the requirements of any other law necessary to make the personal service contract or memorandum of agreement valid.

Section 108. KRS 64.625 is amended to read as follows:

Physicians employed by county, city-county, and district health departments may, upon written recommendation of the hiring and paying authorities expressly approved in writing by the secretary for health ***and family*** services, receive compensation in excess of, and without regard to, any limitation imposed by any existing statute, as employees of local health units. Such rates shall be based upon studies of the duties and responsibilities of the positions and upon a comparison for rates being paid for similar or comparable services elsewhere. The secretary for health ***and family*** services may also take into consideration other appropriate factors, including the scarcity of physicians qualified for public health work and the availability of local funds therefor.

Section 109. KRS 65.710 is amended to read as follows:

In order to enable cities and counties to fulfill their obligations regarding the public health, safety, and welfare, the General Assembly does hereby allow cities and counties to contract with private persons, partnerships, or corporations for providing ambulance service to the residents of such cities and counties subject to the following conditions:

(1) These contracts must be in writing and must be approved by the city council or board of aldermen if a city is party thereto, or by the fiscal court in case a county is party thereto.

(2) No contract shall be made with an ambulance service or other organization or person unless the contract shall stipulate that at least one (1) person on each ambulance run shall possess currently valid emergency medical technician certification.

(3) All contracts made with any ambulance service or other organization or person shall stipulate that all vehicles used for operation of the service comply with vehicle and equipment administrative regulations issued by the Cabinet for Health ***and Family*** Services.

(4) All contracts shall include the stipulation that at least two (2) trained persons, one (1) driver and one (1) attendant, shall be carried on each ambulance for each ambulance call which is covered by the contract.

(5) No contract shall be made for a period of time greater than one (1) year.

(6) The vehicle, equipment, training, and personnel requirements of subsections (2), (3), and (4) of this section shall also apply to the operation of an ambulance service by a city or a county or by a city and a county jointly.

(7) No provisions of this section shall be construed as to limit the power of any city or county to contract for or operate ambulance services under requirements which are stricter than those of this section, or to require insurance, or bonding of contractors, provided these provisions are not in conflict with the requirements of this section.

Section 110. KRS 67.082 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 150.370, 525.130, or any other statute that may be in conflict herewith, any county fiscal court may, whenever an epidemic or potential epidemic of a disease transmissible to man and domestic animals exists or is threatened in any species of wildlife, declare all or any portion of that county to be an epidemic area. Following a declaration, the fiscal court may, with approval of the Cabinet for Health ***and Family*** Services and the Department of Fish and Wildlife Resources, conduct control programs, including population reduction programs, against any species of wildlife including, but not limited to, red and gray foxes, skunks, and rodents which may be serving as reservoirs and/or vectors of any disease transmissible to human beings and/or domestic animals including but not limited to rabies, leptospirosis, salmonellosis, and Rocky Mountain spotted fever. These control programs may include but shall not be limited to hunting, trapping, vaccination, and use of poisons. Technical and operational assistance for the programs shall be made available by the Cabinet for Health ***and Family*** Services, the Department of Fish and Wildlife Resources, and the Department of Agriculture. A control program established under authority of this section may be conducted by the individual or joint action of the referred-to state agencies, the local health department, or individual property owners designated as agents of said cabinets and departments. In the event poisonous baits are used to control an outbreak of rabies in wildlife, those programs shall be under the direction of the Cabinet for Health ***and Family*** Services. All pet animals in the area shall be quarantined for the duration of the program by action of the local board of health. These programs shall be regulated to provide specific identification of bait station locations, daily check of each bait station, and positive pickup and destruction of all unconsumed baits at the end of the program.

(2) No liability shall be imposed upon any state agency or local agency or any employee or agent thereof for any injury

occurring to domesticated animals, individuals, or property in carrying out programs in good faith authorized by this section, but all persons and agencies shall be liable to the extent otherwise provided by law for ordinary and gross negligence.

Section 111. KRS 72.225 is amended to read as follows:

An advisory commission is hereby established to act in a general advisory capacity to the medical examiner services. The commissioner of State Police, the commissioner of training, the secretary of justice, and the secretary for health ***and family*** services shall be ex officio members of the advisory commission. The secretary of justice shall appoint five (5) additional members for terms of four (4) years each or until their successors are appointed and qualify. Members of the advisory commission shall receive no compensation for their services but shall be repaid their actual expenses incurred in attending meetings.

Section 112. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner and his deputy in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he is in office the training course of at least eighteen (18) hours provided by the Department of Criminal Justice Training or other courses approved by the Justice Cabinet after having completed the basic training course the first year of employment. The training course shall include material developed by the cabinet and approved by the Cabinet for Health ***and Family*** Services on the human immunodeficiency virus infection and acquired immunodeficiency syndrome. The material shall include information on known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change.

Section 113. KRS 72.465 is amended to read as follows:

(1) The coroner shall in his sound discretion determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of KRS 72.410 to 72.470, and if inquiry reveals that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death. In all other instances, the coroner shall sign the death certificate in coroner's cases.

(2) In the event an autopsy is performed under the provisions of KRS 72.410 to 72.470 subsequent to the time that a death certificate has been filed with the Cabinet for Health ***and Family*** Services,[~~Office of~~] Vital Statistics ***Branch***, the coroner shall notify the[~~Office of~~] Vital Statistics ***Branch*** of any change that may be necessary in the original certificate.

Section 114. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health ***and Family*** Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars ($8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars ($8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half

(1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including, but not limited to, the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

  (a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

  (b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

  (c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

  (d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

  (e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

  (f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

  (g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded

to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

(15) For fiscal year 2004-2005 and each fiscal year thereafter, there is allotted one million dollars ($1,000,000) from the fund established in KRS 95A.220 to be used by the commission to conduct training-related activities.

Section 115. KRS 96.931 is amended to read as follows:

As used in KRS 96.930 to 96.943, unless the context otherwise requires:

(1) "City" means an incorporated municipality of any class;

(2) "Governing body" means the body vested by law with the legislative power of a city;

(3) "Sewer body" means the body vested with responsibility for the control, operation, and maintenance of a city's sewer facilities, which may be the governing body or a board, commission, or agency, created by statute or by city ordinance, or a private person, performing such functions under lawful contract with the city;

(4) "Water supplier" means any person supplying water intended to be used, or actually used, in any manner resulting in contamination and includes the city itself, other cities and public bodies, and private operators of water-supplying facilities;

(5) "Public health standards" means such standards as are lawfully prescribed from time to time by the secretary for health ***and family*** services, the United States Public Health Service, or any lawfully constituted county, city, or other public board, department, or agency, vested with responsibility in this area.

Section 116. KRS 116.113 is amended to read as follows:

(1) Upon receipt of notification from the Cabinet for Health ***and Family*** Services or other reliable sources of the death of a person, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general, or special election.

(2) Upon receipt of notification from the circuit clerk that a person has been declared incompetent, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general, or special election.

(3) Upon receipt of notification from the Administrative Office of the Courts that a person has been convicted of a felony offense, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general, or special election.

(4) Following the purge of a name from the records of the State Board of Elections, the state board shall notify the clerk of the county in which the voter lived of the action; and the county clerk shall within ten (10) days update the county voter registration files to reflect the necessary change. If a protest is filed by the voter, the county board shall hear it at its next regular monthly meeting. If the county board decides in favor of the protesting voter, the voter's registration record shall be restored, including his voting record. If the protest is filed while the registration books are closed and the county board decides in favor of the protesting voter, the county board shall issue the voter an "Authorization to Vote" for the upcoming election and the voter's record shall be restored when the registration books open following the election.

Section 117. KRS 141.065 is amended to read as follows:

(1) For the purposes of this section, "code" or "Internal Revenue Code" means the Internal Revenue Code in effect as of December 31, 1981.

(2) There shall be allowed as a credit for any taxpayer against the tax imposed by this chapter for any taxable year, an amount equal to one hundred dollars ($100) for each person hired by the taxpayer, if that person has been classified as unemployed by the Department for Community Based Services of the Cabinet for ***Health and Family Services***[~~Families and Children~~], and has been so classified for at least sixty (60) days prior to his employment by the taxpayer, and if further that person has

remained in the employ of the taxpayer for at least one hundred eighty (180) consecutive days during the taxable year in which the taxpayer claims the credit.

(3) No credit shall be allowed to any taxpayer for any person hired under any of the following circumstances:

(a) A person for whom the taxpayer receives federally funded payments for on-the-job training;

(b) For any person who bears any of the relationships to the taxpayer described in paragraphs (1) through (8) of Section 152(a) of the Internal Revenue Code, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent (50%) in value of the outstanding stock of the corporation as determined with the application of Section 267(c) of the code;

(c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of Section 152(a) of the code to a grantor, beneficiary, or fiduciary of the estate or trust; or

(d) To any person who is a dependent of the taxpayer as described in code Section 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(4) For purposes of this section, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year by such a controlled group of corporations. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to that term by code Section 1563(a), except that "more than fifty percent (50%)" shall be substituted for "at least eighty percent (80%)" each place it appears in code Section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(c) of code Section 1563.

(5) For purposes of this section, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and in no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year.

(6) No credit shall be allowed under subsection (2) of this section to any organization which is exempt from income tax by this chapter.

(7) In the case of an electing small business corporation, the amount of the credit determined under this section for any taxable year shall be apportioned pro rata among the persons who are shareholders of the corporation on the last day of the taxable year, and any person to whom an amount is so apportioned shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for that amount.

(8) In the case of an estate or trust, the amount of the credit determined under this section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of income of the estate or trust allocable to each, and any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for that amount.

(9) In no event shall the credit allowed, pursuant to this section, for any taxable year exceed the tax liability of the taxpayer for the taxable year.

Section 118. KRS 142.347 is amended to read as follows:

(1) Except when the health ***and family*** services secretary has been granted specific authority in KRS 142.301 to 142.359, the cabinet shall administer the provisions of KRS 142.301 to 142.359, and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, conferred generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

(2) The Cabinet for Health ***and Family*** Services shall be responsible for compliance with all federal reporting requirements regarding the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311.

(3) The Cabinet for Health ***and Family*** Services shall fully cooperate with the cabinet and shall provide the cabinet with any information requested to carry out the provisions of KRS 142.301 to 142.359.

Section 119. KRS 142.351 is amended to read as follows:

(1) A report of revenue receipts from the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall be provided on a quarterly basis by the cabinet to the health ***and family*** services secretary on or before the tenth day of the second month following the close of each fiscal quarter.

(2) It is the responsibility of each provider, subject to tax under KRS 142.303, 142.307, 142.309, and 142.311 to register with the cabinet, and comply with the tax and reporting provisions of KRS 142.301 to 142.359.

Section 120. KRS 148.527 is amended to read as follows:

(1) The Department of Travel of the Tourism Development Cabinet shall, after appropriate research has been conducted, establish and maintain a Kentucky Certified Retirement Community Program whereby retirees and those planning to retire are encouraged to make their homes in Kentucky communities that have met certain criteria to be certified by the Tourism Development Cabinet as a Kentucky certified retirement community. In support of this program, the Department of Travel

shall identify certain issues of interest to retirees or potential retirees in order to inform them of the benefits of living in Kentucky. Issues of interest to retirees may include, but are not limited to:

(a) Kentucky's state and local tax structure;

(b) Housing opportunities and cost;

(c) Climate;

(d) Personal safety;

(e) Working opportunities;

(f) Health care services and other services along the continuum of services including, but not limited to, home and community based services;

(g) Transportation;

(h) Continuing education;

(i) Leisure living;

(j) Recreation;

(k) The performing arts;

(l) Festivals and events;

(m) Sports at all levels; and

(n) Other services and facilities that are necessary to enable persons to age in the community and in the least restrictive environment.

(2) The mission of the Kentucky Certified Retirement Community Program shall be to:

(a) Promote the state as a retirement destination to retirees and those persons and families who are planning retirement both in and outside of Kentucky;

(b) Assist Kentucky communities in their efforts to market themselves as retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle;

(c) Assist in the development of retirement communities and lifecare communities for economic development purposes and as a means of providing a potential workforce and enriching Kentucky communities; and

(d) Encourage tourism to Kentucky in the form of mature market travel to Kentucky in reference to retirement desirability for the future, and for the visitation of those who have chosen to retire in Kentucky.

(3) The Tourism Development Cabinet shall coordinate the development and planning of the Kentucky Certified Retirement Community Program with the Cabinet for Economic Development, the ***Division***[~~Office~~] of Aging Services in the Cabinet for Health ***and Family*** Services, the Kentucky Commission on Military Affairs, the Department of Veterans' Affairs, and other state and local groups interested in participating in and promoting the program.

(4) To obtain certification as a Kentucky certified retirement community, the following requirements shall be met:

(a) Official community support. A resolution by the governing authority endorsing the local retirement recruitment effort is required;

(b) Designation of a sponsor. The program shall have an official sponsoring organization that shall appoint an individual who will be accountable to the community and to the state;

(c) Funding. The sponsoring organization must commit a minimum of ten thousand dollars ($10,000) per year for the local program;

(d) Health services. There shall be a hospital and emergency medical services that are readily accessible to the community;

(e) Available housing. The community shall maintain information on both resale housing and rental housing to ensure that the quantity is sufficient to meet the needs of potential new retiree residents;

(f) Retiree desirability assessment. The community shall conduct a retiree desirability assessment that shall focus on a number of factors including, but not limited to, medical services, adult education opportunities, shopping, recreation, cultural opportunities, safety, aging services, and a continuum of care including home and community based services, housing for the elderly, assisted living, personal care, and nursing care facilities;

(g) Establishment of subcommittees. Each locality shall have a general retiree attraction committee and a minimum of four (4) subcommittees as follows:

1. Community inventory/assessment subcommittee. This subcommittee shall conduct an unbiased inventory and assessment of whether the community can offer the basics that retirees demand and develop a professional portfolio containing brief biographies of professionals in the community;

2. Community relations/fundraising subcommittee. This subcommittee shall locate retirees living in the community, act as salespersons for the program, raise funds necessary to run the program, recruit subcommittee members, organize special events, and promote and coordinate the program with local

entities;

3. Marketing and promotion subcommittee. This subcommittee shall establish a community image, evaluate target markets, develop and distribute promotional material, and coordinate advertising and public relations campaigns; and

4. Ambassadors subcommittee. This subcommittee shall be the first contact with prospective retirees and provide tour guides when prospects visit the community. The subcommittee shall respond to inquiries, log contacts made, provide tours, invite prospects to special community events, and maintain continual contact with prospects until the time that the prospect makes a retirement location decision;

(h) Community profile. The sponsor shall develop a community profile similar to that used by many chambers of commerce. It will include factors such as crime statistics, tax information, recreational opportunities, and housing availability; and

(i) Written marketing plan. The retiree attraction committee shall submit a marketing plan that shall detail the mission, the target market, the competition, an analysis of the community's strengths, weaknesses, opportunities and threats, and the strategies the program will employ to attain its goals.

(5) During the certification process, a representative of the retirement attraction committee shall attend state training meetings.

(6) The retiree attraction committee shall work to gain the support of churches, clubs, businesses, and the local media, as this support is necessary for the success of the program.

(7) Within ninety (90) days of certification, the locality shall submit a complete retiree attraction package to the Department of Travel.

(8) Before certification is awarded, the retiree attraction committee shall submit a written three (3) year commitment to the program and a long-term plan outlining steps the community will undertake to maintain its desirability as a destination for retirees. The long-range plan shall outline plans to correct any facility and service deficiencies identified in the retiree desirability assessment required by subsection (4)(f) of this section. The written commitment and long-range plan shall be forwarded to the Department of Travel of the Tourism Development Cabinet.

(9) Upon being certified as a Kentucky certified retirement community, the Tourism Development Cabinet shall provide the following assistance to the community:

(a) Assistance in the training of local staff and volunteers;

(b) Ongoing oversight and guidance in marketing, plus updating on national retirement trends;

(c) Inclusion in the state's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the cabinet's Internet Web site;

(d) Eligibility for state financial assistance for brochures, support material, and advertising; and

(e) An annual evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.

(10) The Tourism Development Cabinet shall promulgate administrative regulations to implement the provisions of this section.

Section 121. KRS 151.035 is amended to read as follows:

(1) The Kentucky Geological Survey shall be designated as the Commonwealth's official repository for all information relating to the occurrence and quality of groundwater as defined in KRS 151.100.

(2) The Cabinet for Natural Resources and Environmental Protection, the Cabinet for Health ***and Family*** Services, and any other cabinet, department, commission, board, or governmental agency, except as provided in subsection (4) of this section, that, by statute, administrative regulation, or as part of its routine activities, collects or generates information about groundwater, shall transmit or cause to be transmitted that information to the Kentucky Geological Survey within ninety (90) days of receipt or generation, or a time determined between the Geological Survey and the other party.

(3) The information to be transmitted may include:

(a) Drillers logs and completion reports of wells drilled or dug for the purpose of producing, testing, or monitoring groundwater;

(b) Geophysical logs of water wells;

(c) Water quality analyses of both organic and inorganic constituents;

(d) Results of all pump, extraction, and injection tests;

(e) Flow determinations of surface discharges of groundwater; and

(f) Any additional data as the Kentucky Geological Survey shall require.

(4) All institutions of higher learning shall be encouraged, but not required, to submit to the Kentucky Geological Survey copies of all research data, including theses and dissertations relating to the occurrence or quality of groundwater.

Section 122. KRS 151.629 is amended to read as follows:

(1) There is established an Interagency Technical Advisory Committee on Groundwater to assist the KGS in the development,

coordination, and implementation of a groundwater monitoring network for the Commonwealth. The committee shall consist of one (1) representative from each of the following agencies, to be appointed by that agency:

(a) Division of Conservation of the Department for Natural Resources;

(b) Division of ***Public Health Protection***~~[Environmental Health and Community]~~ Safety of the Cabinet for Health ***and Family*** Services;

(c) Division of Forestry of the Department for Natural Resources;

(d) Division of Environmental Services of the Department of Agriculture;

(e) Division of Waste Management of the Department for Environmental Protection;

(f) Division of Water of the Department for Environmental Protection;

(g) Department for Environmental Protection;

(h) Department of Mines and Minerals of the Public Protection and Regulation Cabinet;

(i) Department for Natural Resources;

(j) Department for Surface Mining Reclamation and Enforcement;

(k) Kentucky Geological Survey;

(l) University of Kentucky College of Agriculture; and

(m) University of Kentucky Water Resources Research Institute.

(2) The committee shall have two (2) nonvoting legislative liaisons who shall be members of the General Assembly. One (1) liaison shall be a House member appointed by the Speaker of the House of Representatives and one (1) liaison shall be a Senate member appointed by the President of the Senate. The chair of the committee shall be the director of the University of Kentucky Water Resources Research Institute. The duties and responsibilities of the committee shall include:

(a) Developing a plan to coordinate agencies for the overall characterization of the state's groundwater, including occurrence, flow systems, water quantity, and water quality;

(b) Reviewing the data entry process to ensure that all data collected is placed into the Kentucky Groundwater Data Repository;

(c) Establishing a long-term groundwater monitoring plan for the Commonwealth;

(d) Making recommendations for prioritization of the state's groundwater research needs; and

(e) Annually reviewing and evaluating groundwater data collection and analysis.

(3) In addition to the members identified in subsection (1) or (2) of this section, the committee may have, as one (1) of its members, one (1) nonvoting representative from the United States Geological Survey, appointed by that agency.

Section 123. KRS 154.20-020 is amended to read as follows:

(1) The secretary shall be authorized to commit the cabinet to any project or proposal, subject to approval of the committee as necessary except that any state incentive agreement requiring the participation of other agencies of state government shall require the concurrence of the board.

(2) No project shall be funded in whole or part by the authority unless first approved by its committee pursuant to administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

(3) Lending decisions made by the authority shall be based, if possible, feasible, and not otherwise precluded by federal or state law, on utilizing state funds to leverage private sector investment.

(4) The authority shall cooperate with the Cabinet for Health ***and Family*** Services in facilitation of KRS 194.245(1)(a).

Section 124. KRS 154.23-065 is amended to read as follows:

(1) Approved companies under KRS 154.23-005 to 154.23-079 that hire and employ Kentucky Transitional Assistance Program (K-TAP) recipients on a full-time basis shall be eligible, to the extent funds are available, to receive wage subsidies from the Kentucky Cabinet for ***Health and Family Services***~~[Families and Children]~~ in KRS Chapter 205, Title IV-A of the Federal Social Security Act (Subchapter 4 of Chapter 7 of Title 42, United States Code), and the administrative regulations of the Cabinet for ***Health and Family Services***~~[Families and Children]~~ that address standards and eligibility requirements for K-TAP and subsidized employment.

(2) The wage subsidy for a K-TAP recipient shall be equal to a proportionate amount of the prevailing wage paid by the approved company to all other employees in the same job classification as the K-TAP recipient for one (1) year as follows:

(a) A seventy-five percent (75%) subsidy for the first four (4) months of employment;

(b) A fifty percent (50%) subsidy for the next four (4) months of employment; and

(c) A twenty-five percent (25%) subsidy for the next four (4) months of employment.

(3) During the period of the wage subsidy, the Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall reimburse the employer contribution for FICA and Unemployment Insurance made on behalf of K-TAP recipients.

(4) The Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall collect information to determine the eligibility

of recipients and the availability of this subsidy for approved companies.

Section 125. KRS 154.45-060 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 154.45-020 to 154.45-110, there is created the Enterprise Zone Authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky League of Cities; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business community; one (1) member appointed by the Governor from a list of three (3) persons nominated by the AFL-CIO of Kentucky; two (2) members appointed by the Governor to serve at large; one (1) member appointed by the Governor from a list of five (5) persons nominated by the secretary of the Cabinet for Economic Development; the secretary of the Cabinet for Economic Development or his designee; the secretary of the Revenue Cabinet or his designee; and the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~] or his designee.

(2) Authority members shall serve a term of four (4) years and, except for the secretary of the Cabinet for Economic Development, the secretary of the Revenue Cabinet, and the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~], shall not be eligible to succeed themselves.

(3) The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as an enterprise zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings. All members shall serve until such time as their successors are qualified and appointed. Each member of the authority shall receive one hundred dollars ($100), not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.

(4) The Cabinet for Economic Development shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 126. KRS 154A.060 is amended to read as follows:

(1) The corporation shall conduct and administer lottery games which will result in maximization of revenues to the Commonwealth of Kentucky while at the same time provide entertainment to its citizens. It shall be the duty of the corporation, its employees, and the members of the board to provide for the effective operation of lottery games which insure the integrity of the lottery and maintain the dignity of the Commonwealth and the general welfare of its citizens. The corporation, in pursuit of the attainment of the objectives and the purposes of this chapter, may:

  (a) Sue and be sued in its corporate name;

  (b) Adopt a corporate seal and a symbol;

  (c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

  (d) Appoint agents upon which process may be served;

  (e) Enter into written agreements with one (1) or more other states for the operation, marketing, and promotion of a joint lottery or joint lottery games;

  (f) Acquire real property and make improvements thereon. These acquisitions shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with KRS 45.750 to 45.810; and

  (g) Make, execute, and effectuate any and all agreements or contracts including:

    1. Contracts for the purchase of such goods and services as are necessary for the operation and promotion of the state lottery. Proposed purchases of major items of equipment estimated to cost one hundred thousand dollars ($100,000) or more and proposed purchases of items of equipment where the estimated contract price for all the items of equipment taken together is four hundred thousand dollars ($400,000) or more shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with the provisions of KRS 45.750 to 45.810. A contract shall not be artificially divided to cause an estimated contract price to fall below the four hundred thousand dollar ($400,000) threshold. Contracts for personal service shall be reviewed in accordance with KRS 45A.690 to 45A.725.

    2. Contracts to incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

(2) The corporation shall:

  (a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative regulations adopted by the board;

  (b) Submit monthly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which include but are not limited to disclosure of gross revenues, expenses, and net proceeds for the period;

  (c) Adopt by administrative regulation a system of continuous internal audits;

(d) Maintain weekly or more frequent records of lottery transactions, including distribution of tickets to lottery retailers, revenues received, claims for prizes, prizes paid, and all other financial transactions of the corporation;

(e) Adopt by administrative regulation a code of ethics for officers and employees of the corporation to carry out the standards of conduct established by the provisions of this chapter;

(f) Include capital projects, as defined in KRS 45.750(1)(f), which exceed the thresholds set forth in KRS 154A.060(1)(g)1. in the budget unit request submitted by the corporation to the Finance and Administration Cabinet pursuant to KRS 48.050. In the budget unit request submitted by the corporation, a contingency item for acquisition of the on-line central system, all related equipment, and any other equipment owned by vendors of the corporation relating to computer-generated lottery games from the corporation's vendors shall be stated separately from all other equipment. Further, if the identification of specific projects requiring the acquisition of equipment in the nature of computer systems, communications equipment and related peripheral devices, and operating system software cannot be ascertained with absolute certainty at the time the corporation is required to submit its budget unit request, the corporation shall be entitled to submit a general request for the equipment without individually identifying specific projects, together with a maximum amount to be allocated for the equipment, in the budget unit request;

(g) The Kentucky Lottery Corporation and the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for ***Health and Family Services***[~~Families and Children~~] on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize; and

(h) The Kentucky Lottery Corporation and the authority shall develop a system to allow the Kentucky Lottery Corporation to receive on a periodic basis a list of persons declared in default of repayment obligations under financial assistance programs in KRS Chapters 164 and 164A. The Kentucky Lottery Corporation shall withhold from a person's prize winnings the amount of the defaulted loan and shall transfer the amount to the authority to credit the account of the person in default. Any amount remaining after the deduction of the loan amount shall be paid to the person.

Section 127. KRS 156.4975 is amended to read as follows:

As used in KRS 156.497, 156.4975, and 156.4977:

(1) "Core component" means one (1) of the activities or services for children and their families provided by a family resource or youth services center required by KRS 156.497(3) and (4).

(2) "Optional component" means one (1) of the activities or services provided for children or their families as part of the implementation of a family resource or youth services center in addition to those required by KRS 156.497(3) and (4) and designed to satisfy unique community needs.

(3) "Secretary" means the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~].

(4) "Task Force" means the Interagency Task Force on Family Resource and Youth Services Centers.

Section 128. KRS 156.4977 is amended to read as follows:

(1) Beginning with fiscal year 1992, grants shall be awarded to eligible local school districts to implement or continue family resource and youth services centers as defined in KRS 156.497.

(2) Grant proposal instructions shall be developed by the ***Health and Family Services***[~~Cabinet for Families and Children~~]. The instructions shall be contained in a grant application package and distributed to each local public school district in which there are qualifying schools.

(3) A proposal review team comprised of at least three (3) members shall review proposals and score each application in accordance with training provided and scoring procedures established by the Cabinet for ***Health and Family Services***[~~Families and Children~~]. Proposal reviewers shall be selected by the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~]. The reviewers shall submit the scored proposals to the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~]. Written notification of the secretary's final decision on proposals shall be provided by the secretary to each applicant school district.

(4) The application from each qualifying school or school consortium shall contain the following:

(a) A statement of need;

(b) Proposed goals and outcomes;

(c) A description of the actual services and activities to be provided at the center and how they shall be provided;

(d) A description of how the children and families with the most urgent needs will be served first;

(e) Written agreements with other service providers;

(f) A description of the development, composition, and role of the local advisory council;

(g) The strategies to disseminate information;

(h) A training plan;

(i) A description of procedures to be followed to obtain parental permission for services and for sharing confidential information with other service providers. Procedures shall be developed pursuant to federal law and the Kentucky Revised Statutes including, but not limited to, KRS 210.410, 214.185, 222.441, 645.030, and Chapters 620 and 635 and shall require that no family resource center or youth services center offer contraceptives to minor students prior to receiving the express consent of the student's parent or legal guardian;

(j) A plan to minimize stigma;

(k) A work plan for each of the core components and optional components;

(l) Job descriptions for staff;

(m) A description of the center location and school accessibility;

(n) A description of the hours of operation of the center;

(o) A financial strategy and budget;

(p) A program evaluation plan; and

(q) Letters of endorsement and commitment to the center from community agencies and organizations.

(5) Grant proposal instruction and scoring procedures shall be made available to all qualifying schools.

Section 129. KRS 157.190 is amended to read as follows:

The Kentucky Department of Education shall cooperate with the Kentucky Educational Collaborative for State Agency Children to distribute funds for textbooks, programs, and instructional materials for use by children placed in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for ***Health and Family Services***[~~Families and Children's~~] residential, day treatment, clinical, and group home programs.

Section 130. KRS 158.035 is amended to read as follows:

Except as provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a medical or osteopathic physician licensed in any state. The certificate shall state that the child has been immunized against diphtheria, tetanus, poliomyelitis, rubeola, and rubella in accordance with the provisions of this section and KRS 214.010, 214.020, 214.032 to 214.036, and 214.990 and the regulations of the secretary for health ***and family*** services. The governing body of private and public schools shall enforce the provisions of this section.

Section 131. KRS 158.037 is amended to read as follows:

Each public or private elementary or secondary school shall report immunization results to its local health department in accordance with regulations promulgated by the Cabinet for ***and Family*** Health Services.

Section 132. KRS 158.135 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "State agency children" means:

1. a. Those children of school age committed to or in custody of the Cabinet for ***Health and Family Services***[~~Families and Children~~] and placed, or financed by the cabinet, in a Cabinet for ***Health and Family Services***[~~Families and Children~~] operated or contracted institution, treatment center, facility, including those for therapeutic foster care and excluding those for nontherapeutic foster care; or

b. Those children placed or financed by the Cabinet for ***Health and Family Services***[~~Families and Children~~] in a private facility pursuant to child care agreements including those for therapeutic foster care and excluding those for nontherapeutic foster care;

2. Those children of school age in home and community-based services provided as an alternative to intermediate care facility services for the mentally retarded; and

3. Those children committed to or in custody of the Department of Juvenile Justice and placed in a department operated or contracted facility or program.

(b) "Current costs and expenses" means all expenditures, other than for capital outlay and debt service, which are in excess of the amount generated by state agency children under the Support Education Excellence in Kentucky funding formula pursuant to KRS 157.360. These expenditures are necessary to provide a two hundred thirty (230) day school year, smaller teacher pupil ratio, related services if identified on an individual educational plan, and more intensive educational programming.

(c) "Therapeutic foster care" means a remedial care program for troubled children and youth that is in the least restrictive environment where the foster parent is trained to implement planned, remedial supervision and care leading to positive changes in the child's behavior. Children served in this placement have serious emotional problems and meet one (1) or more of the following criteria:

1. Imminent release from a treatment facility;

2. Aggressive or destructive behavior;

3. At risk of being placed in more restrictive settings, including institutionalization; or

4. Numerous placement failures.

(2) (a) Unless otherwise provided by the General Assembly in a budget bill, any county or independent school district that provides elementary or secondary school services to state agency children shall be reimbursed through a contract with the Kentucky Educational Collaborative for State Agency Children. The school services furnished to state agency children shall be equal to those furnished to other school children of the district.

(b) The Department of Education shall, to the extent possible within existing appropriations, set aside an amount of the state agency children funds designated by the General Assembly in the biennial budget to reimburse a school district for its expenditures exceeding twenty percent (20%) of the total amount received from state and federal sources to serve a state agency child.

(3) The General Assembly shall, if possible, increase funding for the education programs for state agency children by a percentage increase equal to that provided in the biennial budget for the base funding level for each pupil in the program to support education excellence in Kentucky under KRS 157.360 and, if applicable, by an amount necessary to address increases in the number of state agency children being served.

(4) The Kentucky Educational Collaborative for State Agency Children shall make to the chief state school officer the reports required concerning school services for state agency children, and shall file with the Cabinet for ***Health and Family Services***[~~Families and Children~~] unit operating or regulating the institution or day treatment center, or contracting for services, in which the children are located a copy of the annual report made to the chief state school officer.

(5) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall contract with a university-affiliated training resource center utilizing all funds generated by the children in state agency programs, except Oakwood and Hazelwood funds, and the funds in the Kentucky Department of Education budget, pursuant to this section, as well as any other educational funds for which all Kentucky children are entitled. The total of these funds shall be utilized to provide educational services through the Kentucky Educational Collaborative for State Agency Children established in KRS 605.110.

(6) Notwithstanding the provisions of any other statute, the Kentucky Educational Collaborative for State Agency Children shall operate a two hundred thirty (230) day school program.

Section 133. KRS 158.137 is amended to read as follows:

(1) As used in this section:

(a) "State agency child" or "state agency children" means "state agency children" defined in KRS 158.135;

(b) "School or educational facility" means any public school, private school, day treatment center, or any other public or private entity that provides educational services to state agency children; and

(c) "Educational passport" means a standard form completed by a school or educational facility which a state agency child is leaving which provides a receiving school or facility with basic demographic and academic information about the state agency child.

(2) When the placement of a state agency child is changed and the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the Cabinet for ***Health and Family Services***[~~Families and Children~~] or the Department of Juvenile Justice. The Cabinet for ***Health and Family Services***[~~Families and Children~~] or the Department of Juvenile Justice shall, within two (2) days of enrolling a state agency child in a new school or educational facility, present the educational passport to the receiving school or educational facility.

(3) A standard educational passport form shall be developed by the Kentucky Department of Education in consultation with the Cabinet for ***Health and Family Services***[~~Families and Children~~] and the Department of Juvenile Justice. The Kentucky Department of Education shall make the form available to all schools or educational facilities serving state agency children.

Section 134. KRS 158.160 is amended to read as follows:

(1) A parent, legal guardian, or other person or agency responsible for a student shall notify the student's school if the student has any medical condition which is defined by the Cabinet for Health ***and Family*** Services in administrative regulation as threatening the safety of the student or others in the school. The notification shall be given as soon as the medical condition becomes known and upon each subsequent enrollment by the student in a school. The principal, guidance counselor, or other school official who has knowledge of the medical condition shall notify the student's teachers in writing of the nature of the medical condition.

(2) If any student is known or suspected to have or be infected with a communicable disease or condition for which a reasonable probability for transmission exists in a school setting, the superintendent of the district may order the student excluded from school. The time period the student is excluded from school shall be in accordance with generally accepted medical standards which the superintendent shall obtain from consultation with the student's physician or the local health officer for the county in which the school district is located. During the presence in any district of dangerous epidemics, the board of education of the school district may order the school closed.

Section 135. KRS 160.305 is amended to read as follows:

(1) The Cabinet for ***Health and Family Services***~~[Families and Children]~~ may enter into a contract with the local board of education of any school district in the Commonwealth for the use of school buses to transport persons eligible for transportation services at times when the buses are not needed to transport students to or from school or school events. Persons eligible for these transportation services shall be:

(a) Sixty-two (62) years of age or older;

(b) Those with physical or mental disabilities; or

(c) Any other person designated by the Cabinet for ***Health and Family Services***~~[Families and Children]~~ as appropriate for these transportation services.

(2) Before this contract is entered into, the Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall formulate a plan for the use of school buses for these purposes and shall submit it to the local board of education for its approval or disapproval. The plan for the use of school buses for these transportation purposes shall include routes, schedules, cost, and any other matters deemed necessary by both parties.

(3) The cost of transporting persons eligible under the provisions of subsection (1) of this section shall be borne by the Cabinet for ***Health and Family Services***~~[Families and Children]~~.

Section 136. KRS 164.282 is amended to read as follows:

(1) All public and independent postsecondary education institutions shall provide first-time, full-time students with information about hepatitis B disease. The information shall include:

(a) Symptoms and treatment;

(b) The risk factors associated with hepatitis B acquisition and transmission; and

(c) Current recommendations from the United States Centers for Disease Control and Prevention, or the American College Health Association regarding the availability and effectiveness of a hepatitis B vaccination.

(2) Nothing in this section shall be construed to require the Cabinet for Health ***and Family*** Services or the postsecondary institutions to provide or purchase vaccinations for hepatitis B.

Section 137. KRS 164.2847 is amended to read as follows:

(1) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Kentucky foster or adopted child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution, and if:

(a) The student's family receives state-funded adoption assistance under KRS 199.555;

(b) The student is currently committed to the Cabinet for ***Health and Family Services***~~[Families and Children]~~ under KRS 610.010(4) and placed in a family foster home or is placed in accordance with KRS 605.090(3);

(c) The student is in an independent living program and the placement is funded by the Cabinet for ***Health and Family Services***~~[Families and Children]~~;

(d) The student who is an adopted child was in the permanent legal custody of and placed for adoption by the Cabinet for ***Health and Family Services***~~[Families and Children]~~. A student who meets the eligibility criteria of this paragraph and lives outside of Kentucky at the time of application to a Kentucky postsecondary institution may apply for the waiver up to the amount of tuition for a Kentucky resident; or

(e) The Cabinet for ***Health and Family Services***~~[Families and Children]~~ was the student's legal custodian on his or her eighteenth birthday.

(2) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Department of Juvenile Justice foster child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution and obtains a recommendation for participation from an official from the Department of Juvenile Justice, and if:

(a) The student has not been sentenced to the Department of Juvenile Justice under KRS Chapter 640;

(b) The student has been committed to the Department of Juvenile Justice for a period of at least two (2) years;

(c) The student is in an independent living program and placement is funded by the Department of Juvenile Justice;

(d) The parental rights of the student's biological parents have been terminated; or

(e) The student was committed to the Cabinet for ***Health and Family Services***~~[Families and Children]~~ prior to a commitment to the Department of Juvenile Justice.

(3) Upon request of the postsecondary institution, the Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall confirm the eligibility status under subsection (1) of this section and the Department of Juvenile Justice shall confirm the eligibility status and recommendations under subsection (2) of this section of the student seeking to participate in the waiver program. Release of this information shall not constitute a breach of confidentiality required by KRS 199.570,

610.320, or 620.050.

(4) The student shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. If the sum of the tuition waiver plus other student financial assistance, except loans and the work study program under 42 U.S.C. secs. 2751-2756b, from all sources exceeds the student's total cost of attendance, as defined in 20 U.S.C. sec. 1087ll, the tuition waiver shall be reduced by the amount exceeding the total cost of attendance.

(5) The student shall be eligible for the tuition waiver:

(a) For entrance to the institution for a period of no more than four (4) years after the date of graduation from high school; and

(b) For a period of five (5) years after first admittance to any Kentucky institution if satisfactory progress is achieved or maintained.

(6) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall report the number of students participating in the tuition waiver program under subsection (1) of this section and the Department of Juvenile Justice shall report the number of students participating in the tuition waiver program under subsection (2) of this section on October 1 each year to the Council on Postsecondary Education and the Legislative Research Commission.

(7) The Council on Postsecondary Education shall report nonidentifying data on graduation rates of students participating in the tuition waiver program by November 30 each year to the Legislative Research Commission.

(8) Nothing in this section shall be construed to:

(a) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;

(b) Limit the participation of a foster or adopted student in any other program of financial assistance for postsecondary education;

(c) Require any postsecondary institution to waive costs or fees relating to room and board; or

(d) Restrict any postsecondary institution, the Department of Juvenile Justice, or the Cabinet for ***Health and Family Services***[~~Families and Children~~] from accessing other sources of financial assistance, except loans, that may be available to a foster or adopted student.

Section 138. KRS 164.2849 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky finds and declares that it is in the best interests of the Commonwealth to encourage and support adults to adopt and provide foster care for children in the custody of the state. The General Assembly recognizes that a child whose care, custody, and control has been assumed by the Commonwealth as evidenced by termination of the rights of the biological parents and adoption from state custody or a custodial commitment to the Cabinet for ***Health and Family Services***[~~Families and Children~~] or the Department of Juvenile Justice is a special ward of the state and faces particular challenges in pursuing higher education. Because it is the intent of the General Assembly to support adoption, foster parenting, and educational advancement, the purpose of KRS 164.2847 is to provide postsecondary education advancement opportunity for foster and adopted children who are or were wards of the state.

Section 139. KRS 164.2867 is amended to read as follows:

(1) Each public or private educational institution that offers a postsecondary degree and has a residential campus shall provide vaccination information on meningococcal meningitis disease to full-time students living in resident housing.

(2) The vaccination information shall be contained in the student housing or enrollment application or lease document and shall include a space for the student to indicate whether or not the student has received the vaccination against meningococcal meningitis disease. If institutions provide electronic enrollment or registration to first-time students, the information required by this section may be provided or collected electronically.

(3) Vaccination information about meningococcal meningitis disease shall include detailed information on the risks of the disease and any recommendations issued by the National Centers for Disease Control and Prevention.

(4) The vaccination information obtained under this section that is in the possession of the educational institution is confidential and shall not be a public record.

(5) This section shall not be construed to require the educational institution or the Cabinet for Health ***and Family*** Services to provide or pay for the meningococcal meningitis disease vaccination.

Section 140. KRS 164.518 is amended to read as follows:

(1) It is the intent of the General Assembly to create a seamless system to upgrade the professional development of persons who are employed or provide training in a child-care or early childhood setting through scholarships, merit awards, and monetary incentives, to assist these persons in obtaining a child development associate credential, post-secondary certificate, diploma, degree, or specialty credential in an area of study determined by the authority as recommended by the professional development council.

(2) Eligibility for scholarship funds shall be for individuals who do not have access to professional development funds from other education programs that receive state or federal funds, and who are:

(a) Employed at least twenty (20) hours per week providing services in a child-care or early childhood setting; or

(b) Involved in providing professional development training for teachers in an early childhood setting.

(3) The Kentucky Higher Education Assistance Authority, after consultation with the Early Childhood Development Authority and the Cabinet for ***Health and Family Services***~~[Families and Children]~~, shall promulgate administrative regulations, including a system of monetary incentives for scholarship program participants for completing classes, in accordance with KRS Chapter 13A as necessary to implement this section.

Section 141. KRS 164.935 is amended to read as follows:

(1) As used in this section:

(a) "Physician" means a medical doctor practicing full-time family medicine, general obstetrics and gynecology, general pediatrics, or general internal medicine; and

(b) "Underserved geographic area" means a county in which the ratio between physicians practicing full-time in that county and the county's population results in each physician serving two thousand five hundred (2,500) or more residents, based on population data acceptable to either the University of Kentucky or the University of Louisville.

(2) The University of Kentucky and University of Louisville shall establish and maintain physician recruitment and placement services, the principal function of which shall be to recruit or place family or general practice physicians in underserved geographic areas. The Cabinet for Health ***and Family*** Services shall pay each university fifty thousand dollars ($50,000) annually for basic administrative costs in addition to the fees enumerated in subsection (4) of this section.

(3) Physician recruitment and placement services may be contracted by licensed health-care facilities or services to assist in recruiting physicians in underserved geographic areas. Fees shall be charged by the University of Kentucky or the University of Louisville to the contracting party in an amount not to exceed ten thousand dollars ($10,000) per physician.

(4) If no licensed health-care facility or service has contracted for recruitment services, when the University of Kentucky or the University of Louisville places a physician in an underserved geographic area or a psychiatrist in a state mental health facility, the following fees shall be paid to the university by the Cabinet for Health ***and Family*** Services, the total of which shall not exceed fifty thousand dollars ($50,000) per university in addition to the fifty thousand dollars ($50,000) per university enumerated in subsection (2) of this section:

(a) Ten thousand dollars ($10,000) for a family practice physician entering permanent, full-time practice;

(b) Ten thousand dollars ($10,000) for a psychiatrist entering full-time permanent employment in a state mental health facility;

(c) Eight thousand dollars ($8,000) for a general obstetrician-gynecologist entering permanent, full-time practice;

(d) Two thousand dollars ($2,000) for a general pediatrician or general internal medicine practitioner entering permanent, full-time practice; and

(e) One thousand dollars ($1,000) for any other licensed medical practitioner entering permanent, full-time practice.

(5) Fees paid to the universities under the provisions of subsection (3) of this section shall be made only after sufficient proof has been presented documenting the university's principal role in influencing the physician's practice location. Correspondence from physicians placed, as well as all other parties directly involved, shall state that the university substantially influenced the physician's choice of practice location and describe in detail the services provided by the university.

Section 142. KRS 174.410 is amended to read as follows:

(1) The secretary shall be responsible for controlling and regulating the movement of all radioactive materials and the intrastate transport of other hazardous materials transported by all carrier modes within the Commonwealth.

(2) The secretary, in consultation with the secretary of the Natural Resources and Environmental Protection Cabinet and the secretary of the Cabinet for Health ***and Family*** Services, shall adopt by reference or in entirety, the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), as amended, to effectively carry out the intent of KRS 174.400 to 174.425.

(3) The cabinet and the Justice Cabinet shall cooperate with and assist the Natural Resources and Environmental Protection Cabinet in implementing and enforcing the transportation provisions of any state hazardous waste regulations promulgated pursuant to KRS Chapter 224. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets, and all activities shall occur in accordance with the terms of the agreement. The agreement shall address and include, but not necessarily be limited to, the following items:

(a) As a part of routine and periodic transportation checks and inspections, ensure that shipments of hazardous waste do not present a threat to the public or the environment; are accompanied by the required hazardous waste manifest or such other shipping or delivery documents as may be acceptable to the Natural Resources and Environmental Protection Cabinet; and comply with applicable shipping standards;

(b) Upon receipt of a written request from the secretary or general counsel of the Natural Resources and Environmental Protection Cabinet, actively conduct field investigations relating to the illegal, improper, or unauthorized transport of hazardous waste in the state. Such investigations may, at a minimum, include passive and active surveillance, apprehension, and reporting, with the scope and extent of each investigation to be previously agreed to by the involved cabinets;

(c) Compile and maintain such necessary records that may normally be required to carry out the provisions of this subsection and shall for minor violations report quarterly, and for major violations report weekly, to the Natural Resources and Environmental Protection Cabinet on the status of the interagency hazardous-waste transportation monitoring and enforcement activity for irregularities or violations;

(d) Provide any information, evidence, and other support, either in written form or in the form of oral testimony during a legal proceeding or both, as may be required by the Natural Resources and Environmental Protection Cabinet to fully carry out its statutory responsibility under the appropriate sections of KRS Chapter 224;

(e) The Natural Resources and Environmental Protection Cabinet shall, unless specifically agreed otherwise, have primary responsibility for initiating and conducting all legal proceedings arising from the terms and provisions of this subsection; and

(f) The Natural Resources and Environmental Protection Cabinet shall provide sufficient training, technical assistance, and other support to the appropriate cabinets to prepare representatives of the cabinets to adequately carry out the responsibilities set forth in this subsection.

Section 143. KRS 175.525 is amended to read as follows:

(1) The authority or the cabinet shall establish by administrative regulation promulgated pursuant to KRS Chapter 13A a toll-road identification card to be provided to paying and nonpaying users of toll facilities. The toll-road identification cards shall be issued through an application process. A fee that shall not exceed five dollars ($5) may be established for the issuance of each card.

(2) Upon application, nonpaying accounts shall be established for:

(a) State police, local police, and fire department vehicles while the vehicles are being operated in an official capacity on a turnpike project;

(b) Emergency vehicles operated by an ambulance service while the vehicles are being operated in an official capacity, in both emergency and nonemergency situations on a turnpike project; and

(c) Funeral processions on turnpike projects.

(3) To receive the exemption contained in subsection (2) of this section, an ambulance service shall be licensed by the Cabinet for Health ***and Family*** Services.

Section 144. KRS 186.040 is amended to read as follows:

(1) Upon receiving the application and fee, the county clerk shall issue to the owner a certificate of registration containing the information required by subsection (2) of this section and a registration plate. If the cabinet finds that there is a shortage of materials suitable for making plates, or that a substantial saving will result, it may require by regulation with the approval of the Governor that previously issued plates continue to be used for a designated period. Except as provided in subsection (3) of this section, for services performed, the owner shall pay the county clerk the sum of three dollars ($3) for each registration, or if the registration exceeds a twelve (12) month period, the clerk shall receive a fee of four dollars ($4).

(2) The certificate of registration shall contain the registration number, the name and post office address of the owner, and such other information as the cabinet may require.

(3) An owner who registers a vehicle under KRS 186.050 that has a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater shall pay the county clerk twenty dollars ($20) for each registration. The clerk shall retain the twenty dollar ($20) fee for services performed under this subsection.

(4) Any person requesting a certificate of registration or renewal of registration of any type of motor vehicle shall have the opportunity to donate one dollar ($1) to the child care assistance account. The one dollar ($1) donation shall be added to the regular fee for vehicle registration. One donation may be made per issuance or renewal of vehicle registration. Donation to the child care assistance account shall be voluntary and may be refused by the applicant at the time of the issuance or renewal of any vehicle registration.

(5) The county clerk may retain five percent (5%) of fees collected for the child care assistance account under subsection (4) of this section. The remaining funds shall be deposited into a trust and agency account in the State Treasury to the credit of the Cabinet for ***Health and Family Services***[~~Families and Children~~] for the exclusive use as follows:

(a) Funds shall be made available to the agencies that administer child care subsidy funds; and

(b) Funds shall be used as determined by the cabinet for working families whose income exceeds the state income eligibility limits for child day care assistance.

Section 145. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) That person has presented false or misleading information as to the person's residency, citizenship, religious convictions, or immigration status.

(g) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(h) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(i) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(j) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for ***Health and Family Services***~~[Families and Children]~~ that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for ***Health and Family Services***~~[Families and Children]~~ and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment.

(4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(5) (a) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which, if committed in this state, would be grounds for the suspension or revocation of an operator's license. The cabinet shall not suspend an operator's license under this paragraph if:

1. The conviction causing the suspension or revocation is more than five (5) years old;
2. The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and
3. The license holder complies with the provisions of KRS 186.442.

(b) If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state for a conviction that is less than five (5) years old, the cabinet shall deny the person a license until the person resolves the matter in the other state and complies with the provisions of this chapter.

(c) The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(d) This subsection shall not apply to a commercial driver's license.

(6) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(7) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 146. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by KRS 189A.010(5)(a) or (6), the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender or a person convicted under KRS 189A.010(1)(e):

(a) The treatment or education shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program;

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment;

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant shall be released prior to the expiration of the ninety (90) day period; and

(d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by KRS 189A.010(5)(b), the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program;

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment;

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period; and

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by KRS 189A.010(5)(c) or (d), the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential-type program;

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program;

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period; and

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For the purposes of this section, "treatment" means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Health ***and Family*** Services for services as

required under this section.

(6) The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Health ***and Family*** Services shall include:

(a) Manner of assessment;

(b) Appropriate education and treatment plans; and

(c) Referrals to other treatment providers.

(7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 147. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall be sentenced to pay a service fee of three hundred twenty-five dollars ($325), which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The revenue collected from the service fee imposed by this section shall be utilized as follows:

(a) Twelve percent (12%) of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(b) Twenty percent (20%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy;

(c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

(d) Sixteen percent (16%) of the amount collected shall be transferred as follows:

1. Fifty percent (50%) shall be credited to the traumatic brain injury trust fund established under KRS 211.476; and

2. Fifty percent (50%) shall be credited to the Cabinet for Health ***and Family*** Services, Department for Mental Health and Mental Retardation Services, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph.

(e) Any amount specified by a specific statute shall be transferred as provided in that statute;

(f) Forty-six percent (46%) of the amount collected shall be transferred to be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy; and

(g) The remainder of the amount collected shall be transferred to the general fund.

(4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 148. KRS 199.570 is amended to read as follows:

(1) (a) The files and records of the court during adoption proceedings shall not be open to inspection by persons other than parties to the proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection.

(b) Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court, except that upon the written consent of the biological parents and upon written order of the Circuit Court all papers and records including all files and records of the Circuit Court during proceedings for termination of parental rights provided in KRS 625.108 shall be open for inspection to any adult adopted person who applies in person or in writing to the Circuit Court as provided in KRS 199.572. Health information received pursuant to KRS 199.525 shall be added to the adoption case file. The clerk of the Circuit Court shall set up a separate docket and order book for adoption cases and these files and records shall be kept locked.

(c) No person having charge of any adoption records shall disclose the names of any parties appearing in such records or furnish any copy of any such records to any person or other entity that does not meet the requirements of KRS 199.572, except upon order of the court which entered the judgment of adoption.

(2) After entry of the adoption judgment, the clerk of the Circuit Court shall promptly report to the Cabinet for Health ***and Family*** Services of Kentucky full information as called for on forms furnished by the Cabinet for Health ***and Family*** Services, necessary to make a new birth certificate conforming to the standard birth certificate form. Upon receipt of this information, the Cabinet for Health ***and Family*** Services shall cause to be made a new record of the birth and it shall be filed with the original certificate, and the original certificate shall be stamped with the words, "CONFIDENTIAL -- subject to copy and/or inspection only on written order of the court."

(3) The new certificate shall set forth the new name, if any, of the adopted child, the names of the adoptive parents, and such other information deemed necessary in accordance with rules and regulations promulgated by the Cabinet for Health ***and Family*** Services in issuing of birth certificates. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the biological parent or parents of the child. If requested by the adoptive parents, the new birth certificate when issued shall contain the location of birth, hospital, and name of doctor or midwife. This information should be given only by an order of the court in which the child was adopted. The new birth certificate shall recite the residence of the adoptive parents as the birthplace of the child and this shall be deemed for all legal purposes to be the birthplace of the child. If no birth certificate is on file for a child born in Kentucky, the Cabinet for Health ***and Family*** Services shall prepare a certificate of birth in accordance with the information furnished the cabinet by the clerk of the Circuit Court which issued the adoption order. The Cabinet for Health ***and Family*** Services shall furnish to the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section. If the child was born in another state, the order of adoption shall be forwarded to the division of vital statistics of the state concerned to be changed in accordance with the laws of such state. If the child was born in a foreign country, the report of adoption shall be returned to the attorney or agency handling the adoption for submission to the appropriate federal agency.

(4) Thereafter when any copy of the certificate of birth of any child is issued it shall be a copy of the new certificate of birth, except when an order of the court granting the judgment of adoption shall request the issuance of the copy of the original certificate of the child's birth.

(5) If any judgment of adoption is reversed, modified, or vacated in any particular, the clerk of the Circuit Court shall notify the Cabinet for Health ***and Family*** Services of the reversal or modification and the effect of same, and the cabinet shall make any necessary changes in its records.

Section 149. KRS 194.245 is amended to read as follows:

(1) No later than August 1, 1990, the Cabinet for Human Resources shall begin contracting to construct and operate, or lease and operate the following:
   (a) A one hundred (100) bed inpatient mental health facility in eastern Kentucky;
   (b) Twelve (12) child-care centers with a minimum of one (1) center in each of the seven (7) Kentucky congressional districts;
   (c) Four (4) eight (8) bed group homes for persons with mental retardation;
   (d) Two (2) one hundred (100) bed personal care homes; and
   (e) Twelve (12) senior citizens centers with a minimum of one (1) center in each of the seven (7) Kentucky congressional districts.

(2) Effective August 1, 2000, the Cabinet for ***Health and Family Services***[~~Families and Children~~], as the successor agency to the Cabinet for Human Resources with the responsibility for the operation of child-care centers as identified in subsection (1)(b) of this section, may transfer the ownership of all real property relating to any child-care center, with the approval of the Finance and Administration Cabinet, and all operational and administrative responsibility over any child-care center, and any contract, agreement, or lease that the Cabinet for ***Health and Family Services***[~~Families and Children~~] has assumed or executed for the operation of any child-care center to the city, county, or urban-county government in which the center is located. Any transfer made under this section shall provide for the continued operation of a center in accordance with the public purpose set forth in subsection (1) of this section.

(3) Effective August 1, 2000, the Cabinet for Health ***and Family*** Services, as the successor agency to the Cabinet for Human Resources with the responsibility for the operation of senior citizens centers as identified in subsection (1)(e) of this section, may transfer the ownership of all real property relating to any senior citizens center, with the approval of the Finance and Administration Cabinet, and all operational and administrative responsibility over any senior citizens center, and any contract, agreement, or lease that the Cabinet for Health ***and Family*** Services has assumed or executed for the operation of any senior citizens center, to the city, county, or urban-county government in which the center is located. Any transfer made under this section shall provide for the continued operation of a center in accordance with the public purpose set forth in subsection (1) of this section.

Section 150. KRS 194A.005 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services; and

(2) "Secretary" means the secretary for health ***and family*** services.

Section 151. KRS 194A.025 is amended to read as follows:

(1) The secretary for health ***and family*** services and the secretary's designated representatives in the discharge of the duties of the secretary may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(2) The secretary may delegate any duties of the office of secretary to employees of the cabinet as the secretary deems necessary and appropriate, unless otherwise prohibited by statutes.

(3) The secretary may enter into any contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities, and other units of government as may be deemed necessary to carry out the general intent and purposes of the cabinet.

Section 152. KRS 194A.055 is amended to read as follows:

There is established in the State Treasury a fund to be known as the "Kentucky Health Care Improvement Fund." This fund shall exist for the purpose of receipt and expenditure of moneys to improve health care and access to health insurance residents of the Commonwealth. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasury upon the warrant of the secretary of the Cabinet for Health ***and Family*** Services. Beginning July 1, 2000, twenty-five percent (25%) of the proceeds from the tobacco settlement agreement fund shall be deposited in this fund as provided under KRS 248.654. All investment income earned from moneys deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at the close of any fiscal year but shall be carried forward in the next fiscal year for the purpose of the fund. The board shall develop and oversee the implementation of a strategic plan. The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals, and it shall be updated every two (2) years. The board shall submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year for the preceding fiscal year, outlining its activities and expenditures. The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the fund and, if necessary in the opinion of the Auditor, an audit of the operations of the fund. No money in the fund shall be allocated until the board has adopted a strategic plan.

Section 153. KRS 194A.065 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.

(2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.

(3) The Cabinet for Health ***and Family*** Services shall provide access to the Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the Courts to its database.

Section 154. KRS 194A.095 is amended to read as follows:

(1) There is created in the Cabinet for Health ***and Family*** Services ***a Division***[~~an Office~~] of Women's Physical and Mental Health for the purpose of:

  (a) Serving as a repository for data and information affecting women's physical and mental health issues;

  (b) Analyzing and communicating trends in women's health issues and mental health;

  (c) Recommending to the Cabinet for Health ***and Family*** Services and to any advisory committees created under KRS 216.2923, data elements affecting women's physical and mental health. The ***division***[~~office~~] shall advise and direct which data elements should be collected, analyzed, and reported in a timely manner under KRS 216.2920 to 216.2929;

  (d) Cooperating and collaborating with the Cabinet for Health ***and Family*** Services in receiving and disseminating through all forms of media including the internet relevant aggregate data findings under KRS 216.2920 to 216.2929 which affect women; and

  (e) Planning, developing, and administering a Women's Health Resource Center within the Cabinet for Health ***and Family*** Services to focus on targeted preventive care and comprehensive health education.

(2) The ***division***[~~office~~] may accept gifts, grants, and bequests in support of its mission and duties specified in subsection (1) of this section. All money received shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

Section 155. KRS 194A.110 is amended to read as follows:

The Advisory Council for Medical Assistance, established by KRS 205.540, and its associated bodies are attached to the Department for Medicaid Services for administrative and support purposes. The Advisory Council for Medical Assistance shall advise the secretary for health ***and family*** services and the commissioner for Medicaid services on the administration and operation of the Medical Assistance Program.

Section 156. KRS 194A.135 is amended to read as follows:

(1) The Kentucky Council on Developmental Disabilities is created within the cabinet.

(2) The Kentucky Council on Developmental Disabilities is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.

(3) The members of the Kentucky Council on Developmental Disabilities shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) members.

(a) Ten (10) members shall be representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973 as amended; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA); the state agency that administers funds provided under the Older Americans Act of 1965 as amended; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; and the protection and advocacy system established under Public Law 101-496. These members shall represent the following:

1. Department for Vocational Rehabilitation;
2. Department for the Blind;
3. Division of Exceptional Children, within the Department of Education;
4. ***Division***[~~Office~~] of Aging Services;
5. Department for Medicaid Services;
6. Department of Public Advocacy, Protection and Advocacy Division;
7. University-affiliated programs;
8. Local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities;
9. Department for Mental Health and Mental Retardation Services; and
10. Department for Public Health, Division of Adult and Child Health ***Improvement***.

(b) At least sixty percent (60%) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 as amended and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) members shall be persons with developmental disabilities, and five (5) members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and at least one (1) of these members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution.

(c) Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause.

(d) The council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The cabinet shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be responsible for the recruitment and hiring of a new executive director.

(4) The Kentucky Council on Developmental Disabilities shall:

(a) Develop, in consultation with the cabinet, and implement the state plan as required by Part B of the Developmental Disabilities Act of 1984, as amended, with a goal of development of a coordinated consumer and family centered focus and direction, including the specification of priority services required by that plan;

(b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives;

(c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities;

(d) Submit to the secretary of the cabinet, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the cabinet finds necessary to verify the reports;

(e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;

(f) Examine, not less than once every five (5) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and

(g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.

Section 157. KRS 194A.150 is amended to read as follows:

When federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~], the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice Cabinet, the secretary of the Natural Resources and Environmental Protection Cabinet, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, the secretary of the Public Protection and Regulation Cabinet, the secretary of the Labor Cabinet, or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 158. KRS 194A.360 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall update its database within thirty (30) days of receipt of information. The update shall include information from the:

(1) Offender records;

(2) Institutional records; and

(3) Administrative records.

Section 159. KRS 194A.400 is amended to read as follows:

As used in this section and KRS 194A.410:

(1) "Bioterrorism" means the intentional use, to cause or attempt to cause death, disease, or other biological malfunction in any living organism, of any of the following:

  (a) Microorganism;

  (b) Virus;

  (c) Infectious substance; or

  (d) Biological product that may be engineered as a result of biotechnology or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance, or biological product;

(2) "Commissioner" means the commissioner of the Department for Public Health within the Cabinet for Health ***and Family*** Services;

(3) "Department" means the Department for Public Health within the Cabinet for Health ***and Family*** Services;

(4) "Disaster location" means any geographical location where a bioterrorism attack, terrorist attack, catastrophic event, natural disaster, or emergency occurs; and

(5) "Emergency responder" means state or local law enforcement personnel, fire department personnel, corrections officers, and emergency medical personnel who may be deployed to a bioterrorism attack, terrorist attack, catastrophic event, natural disaster, or emergency.

Section 160. KRS 194A.540 is amended to read as follows:

(1) The secretary for health ***and family*** services shall, in consultation with the applicable licensure board, develop domestic violence-related training courses that are appropriate for the following professions:

  (a) Mental health professionals licensed or certified under KRS Chapters 309, 319, and 335;

  (b) Alcohol and drug counselors certified under KRS Chapter 309;

  (c) Physicians who practice primary care, as defined in KRS 164.925, or who meet the definition of a psychiatrist under KRS 202A.011, and who are licensed under KRS Chapter 311;

  (d) Nurses licensed under KRS Chapter 314;

  (e) Paramedics certified under KRS Chapter 311;

  (f) Emergency medical technicians certified under KRS Chapter 211; and

  (g) Coroners as defined in KRS 72.405 and medical examiners as defined in KRS 72.240.

(2) The courses shall include the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.

(3) Any health-care or mental health professional identified in subsection (1) of this section shall successfully complete a three (3) hour training course that meets the requirements of subsection (2) of this section. Health care or mental health professionals identified in subsection (1) of this section who are granted licensure or certification after July 15, 1996, shall successfully complete the training within three (3) years of the date of initial licensure or certification.

Section 161. KRS 194A.700 is amended to read as follows:

As used in KRS 194A.700 to 194A.729:

(1) "Activities of daily living" means normal daily activities, including bathing, dressing, grooming, transferring, toileting, and eating;

(2) "Assistance with self-administration of medication" means:

(a) Reminding the client to take medications;

(b) Reading the medication's label;

(c) Confirming that medication is being taken by the client for whom it is prescribed;

(d) Opening the dosage packaging or medication container, but not removing or handling the actual medication;

(e) Storing the medication in a manner that is accessible to the client; and

(f) Making available the means of communicating with the client's physician and pharmacy for prescriptions by telephone, facsimile, or other electronic device;

(3) "Assisted-living community" means a series of living units on the same site, operated as one (1) business entity, and certified under KRS 194A.707 to provide services for five (5) or more adult persons not related within the third degree of consanguinity to the owner or manager;

(4) "Client" means an adult person who has entered into a lease agreement with an assisted-living community;

(5) "Danger" means physical harm or threat of physical harm to one's self or others;

(6) "Health services" has the same meaning as in KRS 216B.015;

(7) "Instrumental activities of daily living" means activities to support independent living including, but not limited to, housekeeping, shopping, laundry, chores, transportation, and clerical assistance;

(8) "Living unit" means a portion of an assisted-living community occupied as the living quarters of a client under a lease agreement;

(9) "Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place with the use of a device including, but not limited to, a walker, crutches, or wheelchair; and

(10) "***Division***[~~Office~~]" means the ***Division***[~~Office~~] of Aging Services.

Section 162. KRS 194A.705 is amended to read as follows:

(1) The assisted-living community shall provide each client with the following services according to the lease agreement:

(a) Assistance with activities of daily living and instrumental activities of daily living;

(b) Three (3) meals and snacks made available each day;

(c) Scheduled daily social activities that address the general preferences of clients; and

(d) Assistance with self-administration of medication.

(2) Clients of an assisted-living community may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the client if permitted by the policies of the assisted-living community.

(3) Upon entering into a lease agreement, an assisted-living community shall inform the client in writing about policies relating to the contracting or arranging for additional services.

(4) Each assisted-living community shall assist each client upon a move-out notice to find appropriate living arrangements. Each assisted-living community shall share information provided from the ***division***[~~office~~] regarding options for alternative living arrangements at the time a move-out notice is given to the client.

Section 163. KRS 194A.707 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall establish by the promulgation of administrative regulation under KRS Chapter 13A, an initial and annual certification review process for assisted-living communities that shall include an on-site visit. This administrative regulation shall establish procedures related to applying for, reviewing, and approving, denying, or revoking certification, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B.

(2) No assisted-living community shall operate unless its owner or manager has:

(a) Filed a current application for the assisted-living community to be certified by the ***division***[~~office~~]; or

(b) Received certification of the assisted-living community from the ***division***[~~office~~].

(3) No business shall market its services as an assisted-living community unless its owner or manager has:

(a) Filed a current application for the assisted-living community to be certified by the ***division***[~~office~~]; or

(b) Received certification of the assisted-living community from the ***division***[~~office~~].

(4) The ***division***[~~office~~] shall determine the feasibility of recognizing accreditation by other organizations in lieu of certification from the ***division***[~~office~~].

(5) Individuals designated by the ***division***[~~office~~] to conduct certification reviews shall have the skills, training, experience, and ongoing education to perform certification reviews.

(6) Upon conducting a certification review, the ***division***[~~office~~] shall assess an assisted-living community certification fee in the amount of twenty dollars ($20) per living unit that in the aggregate for each assisted-living community is no less than three hundred dollars ($300) and no more than one thousand six hundred dollars ($1,600). The office shall submit to the Legislative Research Commission, by June 30 of each year, a breakdown of fees assessed and costs incurred for conducting certification reviews.

(7) Notwithstanding any provision of law to the contrary, the ***division***[~~office~~] may request any additional information from an assisted-living community or conduct additional on-site visits to ensure compliance with the provisions of KRS 194A.700 to 194A.729.

Section 164. KRS 194A.709 is amended to read as follows:

(1) The ***division***[~~office~~] shall report to the Division of ***Health Care Facilities and Services***[~~Long Term Care~~] any alleged or actual cases of health services being delivered by the staff of an assisted-living community.

(2) An assisted-living community shall have written policies on reporting and recordkeeping of alleged or actual cases of abuse, neglect, or exploitation of an adult under KRS 209.030.

(3) Any assisted-living community staff member who has reasonable cause to suspect that a client has suffered abuse, neglect, or exploitation shall report the abuse, neglect, or exploitation under KRS 209.030.

Section 165. KRS 194A.715 is amended to read as follows:

(1) An assisted-living community shall provide any interested person with a:

(a) Consumer publication, as approved by the ***division***[~~office~~], that contains a thorough description of Kentucky laws and regulations governing assisted-living communities;

(b) Standard consumer checklist provided by the ***division***[~~office~~]; and

(c) Description of any special programming, staffing, or training if the assisted-living community markets itself as providing special programming, staffing, or training on behalf of clients with particular needs or conditions.

(2) An assisted-living community may refer a request for information required in subsection (1)(a) of this section to the ***division***[~~office~~].

Section 166. KRS 194A.723 is amended to read as follows:

(1) Any assisted-living community that provides services without filing a current application with the ***division***[~~office~~] or receiving certification by the ***division***[~~office~~] may be fined up to five hundred dollars ($500) per day.

(2) Any business that markets its services as an assisted-living community without filing a current application with the ***division***[~~office~~] or receiving certification by the ***division***[~~office~~] may be fined up to five hundred dollars ($500) per day.

Section 167. KRS 194A.729 is amended to read as follows:

If a person or business seeks financing for an assisted-living community project, the ***division***[~~office~~] shall provide written correspondence to the lender, upon request, to denote whether the architectural drawings and lease agreement conditionally comply with the provisions of KRS 194A.700 to 194A.729. The ***division***[~~office~~] may charge a fee of no more than two hundred fifty dollars ($250) for the written correspondence to the lender.

Section 168. KRS 194A.735 is amended to read as follows:

(1) Subject to sufficient funding, the Cabinet for Health ***and Family*** Services ***and***, the Justice Cabinet[~~, and the Cabinet for Families and Children~~], in consultation with any other state agency as appropriate, shall develop and implement a homelessness prevention pilot project that offers institutional discharge planning on a voluntary basis to persons exiting from state-operated or supervised institutions involving mental health and foster care programs, and persons serving out their sentences in any state-operated prison in Oldham County.

(2) The primary goal of the project shall be to prepare a limited number of persons in a foster home under supervision by the Cabinet for ***Health and Family Services***[~~Families and Children~~], state-operated prison in Oldham County under supervision by the Justice Cabinet, and mental health facility under supervision by the Cabinet for Health ***and Family*** Services for return or reentry into the community, and to offer information about any necessary linkage of the person to needed community services and supports.

(a) The pilot project shall be jointly supported by each of the cabinets. One (1) office for the pilot project shall be located in a family resource center or Department for Community Based Services building in Jefferson County, due to its urban population, and one (1) office shall be located in Clinton, Cumberland, McCreary, or Wayne County, due to its rural population. The pilot project office in Jefferson County shall serve persons intending to locate in

Jefferson County who are being released from a mental health facility under supervision by the Cabinet for Health ***and Family*** Services and persons intending to locate in Jefferson County who are being released after serving out their sentences from any state-operated prison in Oldham County. The pilot project office in Clinton, Cumberland, McCreary, or Wayne County shall serve persons intending to locate in Clinton, Cumberland, McCreary, or Wayne County who are aging out of the foster care program following placement in Clinton, Cumberland, McCreary, or Wayne County.

(b) Within thirty (30) days following July 13, 2004, the cabinets shall supply each pilot project director with the collection of information on available employment, social, housing, educational, medical, mental health, and other community services in the county. The information shall include but not be limited to the service area of each public and private provider of services, the capacity of each provider to render services to persons served by the pilot project, the fees of each provider, contact names and telephone numbers for each provider, and an emergency contact for each provider.

(c) Within thirty (30) days following July 13, 2004, the cabinets and directors shall begin a program of education for each of the cabinet and foster home and mental health and appropriate state-operated prison facility staff who will participate in the development of a discharge plan for volunteer participants under this section.

(3) The pilot project shall operate on a voluntary basis. One (1) of each five (5) persons eligible for discharge or completing their sentence shall be offered the opportunity to participate in the pilot program. This offer shall be made at least six (6) months prior to discharge. There shall be a cap on the number of persons served in each office, to be determined by available funding and staffing requirements.

(a) The staff member designated as the homelessness prevention coordinator for each foster home or mental health facility shall maintain a file for each volunteer participant in the foster home or mental health facility, relating to the participant's employment, social, housing, educational, medical, and mental health needs. This file shall be updated from time to time as appropriate and pursuant to an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A that establishes standards for the discharge summary. The staff member designated as the homelessness prevention coordinator for the appropriate state-operated prison participating in the pilot project shall maintain a file containing appropriate forms completed and updated by each person voluntarily participating in the pilot project, relating to the information provided under subsection (6) of this section. All applicable privacy and confidentiality laws shall be followed in assembling and maintaining this file.

(b) Six (6) months prior to the expected date of discharge, the discharge coordinator for each foster home and mental health and state-operated prison facility shall contact the homelessness prevention director for Jefferson County or the homelessness prevention director for Clinton, Cumberland, McCreary, or Wayne County, as appropriate, about the pending release of the volunteer participant who is eligible for discharge from a foster home or mental health facility or who will have served out his or her sentence in a state-operated prison facility that is participating in the pilot project. The director shall visit the home or facility, as appropriate, to assist with the preparation of the final comprehensive discharge plan.

(c) The director and the discharge coordinator for each participating foster home and mental health and state-operated prison facility shall work together to develop a final comprehensive discharge plan that addresses the employment, health care, educational, housing, and other needs of the person to be released, subject to the consent of the person and the funding and staffing capabilities of the director. Information provided by the coordinator may include and be limited to, subject to the staffing and funding capabilities of the coordinator, information provided by the person to be released on a form or forms made available by the foster home or mental health or state-operated prison facility. The discharge plan shall contain but not be limited to the following:

1. Estimated discharge date from the foster home, state-operated prison facility, or mental health facility;
2. Educational background of the person to be released, including any classes completed or skills obtained by the person while in the foster home, state-operated prison facility, or mental health facility;
3. The person's medical and mental health needs;
4. Other relevant social or family background information;
5. A listing of previous attempts to arrange for post-release residence, employment, medical and mental health services, housing, education, and other community-based services for the person; and
6. Other available funding and public programs that may reimburse any services obtained from a provider listed in the discharge plan. Every effort shall be made in the discharge plan to refer the person to a provider that has agreed to an arranged public or private funding arrangement.

No discharge plan shall be completed unless the written consent, consistent with state and federal privacy laws, to compile the information and prepare the plan has been given by the person eligible for release who has volunteered to participate in the pilot program.

(4) The director shall assist with the completion of a final comprehensive discharge plan that may include, but need not be limited to, the following:

(a) Availability of appropriate housing, including but not limited to a twenty-four (24) month transitional program, supportive housing, or halfway house. Planning discharge to an emergency shelter is not appropriate to meet the housing needs of the person being discharged from foster care, a state-operated prison facility, or a mental health facility;

(b) Access to appropriate treatment services for participants who require follow-up treatment;

(c) Availability of appropriate employment opportunities, including assessment of vocational skills and job training; and

(d) Identification of appropriate opportunities to further education.

(5) Discharge planning shall be individualized, comprehensive, and coordinated with community-based services.

(a) Each discharge plan shall create a continuous, coordinated, and seamless system that is designed to meet the needs of the person.

(b) Staff of the foster home or facility and staff of community-based services providers shall be involved in the planning.

(c) Each facility shall utilize, wherever possible, community-based services within the facility to establish familiarity of the person residing in the facility with the community services.

(6) The Department of Corrections shall, through an administrative regulation promulgated in accordance with KRS Chapter 13A, develop a discharge plan that addresses the education; employment, technical, and vocational skills; and housing, medical, and mental health needs of a person who is to be released after serving out his or her sentence in a state-operated prison facility participating in the pilot project.

(7) Appropriate data about discharge placements and follow-up measures shall be collected and analyzed. The analysis shall be included in the interim and final reports of the pilot program specified in subsection (8) of this section.

(8) Each homelessness prevention director shall have regular meetings with appropriate state cabinet and agency staff to review the pilot project and make recommendations for the benefit of the program. Each director shall be assisted by a local advisory council composed of local providers of services and consumer advocates who are familiar with homelessness prevention issues. Priority for membership on the advisory council shall be given to existing resources and regional mental health and substance abuse advisory councils at the discretion of the director.

(9) Each cabinet shall collect data about the discharge plans, referrals, costs of services, and rate of recidivism related to the homelessness prevention program, and shall submit an annual report to the Governor and the Legislative Research Commission no later than October 1 that summarizes the data and contains recommendations for the improvement of the program. The annual report also shall be forwarded to the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities, Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses, and the Kentucky Housing Corporation Homelessness Policy Council.

Section 169. KRS 196.093 is amended to read as follows:

The Department of Corrections shall, in cooperation with the Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health ***and Family*** Services, and the Administrative Office of the Courts, be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;

(2) The Department of Corrections shall provide access to the Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health ***and Family*** Services, and the Administrative Office of the Courts to its database; and

(3) The Department of Corrections shall assign the same identification number or other variable to each person whose name appears in the database.

Section 170. KRS 196.171 is amended to read as follows:

(1) The Department of Corrections shall develop an educational course on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Health ***and Family*** Services of not more than four (4) hours for the instruction of corrections personnel who have day-to-day contact with incarcerated persons and personnel who may be expected to respond to crisis situations. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. The training may be part of any continuing education program.

(2) All persons referred to in subsection (1) of this section shall successfully complete the training required. Any person holding the position referred to in subsection (1) of this section shall not fill that position for more than one (1) year without successful completion of the required training. If a person does not successfully complete the required training within the time specified, he shall be suspended from further service until he successfully completes the required training.

Section 171. KRS 197.055 is amended to read as follows:

(1) The Department of Corrections, in conjunction with the Cabinet for Health ***and Family*** Services, shall establish a mandatory introductory and continuing education program on human immunodeficiency virus and acquired immunodeficiency syndrome for all inmates. Programs shall be specifically designed for inmates while incarcerated and in

preparation for release into the community. Consideration shall be given to cultural and other relevant differences among inmates in the development of educational materials and shall include emphasis on behavior and attitude change. The education program shall be continuously updated to reflect the latest medical information available.

(2) If there is evidence that an inmate, while in the custody of the department, has engaged in behavior which places the inmate at a high risk of transmitting or contracting a human immunodeficiency disorder, the department shall begin a testing program which is consistent with guidelines of the Centers for Disease Control and recommendations of the correctional medical authority and shall target persons who have been involved in or reasonably thought to have been involved in a high-risk behavior. For purposes of this subsection, "high-risk behavior" includes:

(a) Sexual contact with any person within the institution;

(b) The use of intravenous drugs;

(c) Tattooing; and

(d) Any other activity medically known to transmit the virus.

(3) The results of the tests shall become a part of that inmate's medical file, accessible only to persons designated by agency administrative regulations.

(4) The department shall establish policies consistent with guidelines of the Centers for Disease Control and recommendations of the correctional medical authority on the housing, physical contact, dining, recreation, and exercise hours or locations for inmates with immunodeficiency disorders as are medically indicated and consistent with the proper operation of its facilities.

(5) The department shall report to the General Assembly by July 1 each year as to the implementation of this program and the participation by inmates and staff.

(6) If an inmate is involved in a situation with a department employee which could result, according to the institution's physician, in the transmission of the human immunodeficiency virus infection, the inmate shall be tested.

(7) All testing procedures, disclosure, and payment shall be pursuant to KRS 438.250.

Section 172. KRS 198B.020 is amended to read as follows:

(1) There is created the Kentucky Board of Housing, Buildings and Construction within the Kentucky Department of Housing, Buildings and Construction comprised of twenty (20) members to include: the commissioner of the department, one (1) local government fire chief selected by the Governor from a list of three (3) submitted by the Kentucky Firemen's Association; the executive director of the Kentucky Housing Corporation; the commissioner of the Department for Public Health, Cabinet for Health ***and Family*** Services; the Attorney General or any assistant attorney general he may designate to represent the interests of consumers; one (1) professional homebuilder selected by the Governor from a list of three (3) submitted by the Home Builders Association of Kentucky; one (1) registered architect selected by the Governor from a list of three (3) submitted by the Kentucky Society of Architects; one (1) registered structural engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered mechanical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered electrical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) citizen member selected by the Governor to represent the interests of low and moderate-income housing consumers within the Commonwealth of Kentucky; one (1) citizen member at large; one (1) practicing general contractor selected by the Governor from a list of three (3) submitted by the Kentucky Association of General Contractors; one (1) practicing code administrator selected by the Governor from a list of three (3) submitted by the Codes Administrators Association of Kentucky; one (1) realtor selected by the Governor from a list of three (3) submitted by the Kentucky Association of Realtors; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky State Building Trades Council; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors; one (1) member selected by the Governor from a list of three (3) submitted by the Mechanical Contractors Association; one (1) electrical contractor member selected by the Governor from a list of three (3) submitted by the National Electrical Contractors Association; and one (1) retailer member selected by the Governor from a list of three (3) submitted by the Kentucky Retail Federation.

(2) Except for the commissioner of the department, the commissioner of the Department for Public Health, the executive director of the Kentucky Housing Corporation, and the Attorney General or his designee, who shall serve on the board during the term of their existing office and shall be voting members, board members shall be appointed for four (4) year terms, except that initially four (4) shall be appointed for two (2) year terms, four (4) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms. No board member shall be appointed for more than one (1) successive term except as provided in subsection (3) of this section. The Governor shall, within the limitations of this subsection, set the length of term of each of the initial appointees to the board.

(3) Vacancies occurring on the board among those members appointed by the Governor shall be filled by seeking nominations as in subsection (1) of this section from the organization which originally nominated the member who is to be replaced. A replacement for a board member shall be appointed immediately upon the expiration of the departing board member's term of service. Should a board member vacate his position on the board prior to the expiration of his term, his replacement shall be appointed for the period of the unexpired term. Should the unexpired term be less than two (2) years, the person

selected to fill the unexpired term may subsequently be appointed to one (1) successive four (4) year term.

(4) Members may be removed from the board by the Governor for unethical conduct or for failure to attend three (3) or more successive meetings of the board without reasonable cause.

(5) The board shall meet at least quarterly, and the first meeting shall occur no later than August 31, 1978. Before assuming their duties, members of the board shall take an oath as specified in Section 228 of the Constitution of Kentucky.

(6) The commissioner of the department shall serve as chairman of the board. The board may elect from its members other officers as are required to conduct its business, except that neither the commissioner of the Department for Public Health, the executive director of the Kentucky Housing Corporation, nor the Attorney General or his designee shall be elected to office on the board.

(7) The board may adopt such rules, regulations, and bylaws as are necessary to conduct its internal business.

(8) No member of the board may vote on any matter which will result in his direct or indirect financial gain.

(9) Those members of the board who are not salaried governmental employees shall be compensated for their time when attending board meetings or attending to official duties as directed by the board at the rate of fifty dollars ($50) per day. All board members shall be compensated for expenses incurred in the conduct of board business.

Section 173. KRS 199.420 is amended to read as follows:

(1) The secretary may promulgate administrative regulations authorized by statute for the proper administration of the functions of the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies.

(2) In the administration of KRS 199.420 to 199.670, the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state of the United States.

(3) The secretary is authorized, subject to the provisions of KRS Chapters 12, 18A, 42, 45, and 64, to appoint, fix the compensation, and prescribe the duties and powers of any officers and employees as are necessary in the performance of the secretary's duties under KRS 199.420 to 199.670. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis, in accordance with merit standards established by law. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any person so appointed that power and authority as the secretary deems reasonable and proper for the effective administration of KRS 199.420 to 199.670.

(4) The secretary shall have the power and authority to elect coverage for the workers in the cabinet, under the provisions of KRS Chapter 341, and may elect coverage for these workers under the workers' compensation law of this state. In the event the coverage is elected the payment of contributions under KRS Chapter 341 and premiums under the workers' compensation law shall be deemed a proper cost of administration.

(5) The salaries and expenses of the secretary and the secretary's staff shall be considered a proper cost of administration and charged to the funds allocated to the Cabinet for ***Health and Family Services***~~[Families and Children]~~.

Section 174. KRS 199.440 is amended to read as follows:

The secretary may authorize the destruction of any original reports and records that have been properly recorded or summarized in the permanent records of the cabinet or are no longer considered necessary to the proper administration of the cabinet. The destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of the records shall be deposited and credited to the use of the Cabinet for ***Health and Family Services***~~[Families and Children]~~.

Section 175. KRS 199.461 is amended to read as follows:

(1) As used in this section, "social service worker" means a social worker employed by the Cabinet for ***Health and Family Services***~~[Families and Children]~~, Department for Community Based Services, to provide direct casework services in foster care, child protection, juvenile services, or adult protection.

(2) As used in this section, "active case" includes the total number of cases for which the family service worker has responsibility.

(3) The monthly statewide caseload average for social service workers in the area of foster care, child protection, juvenile services, or adult protection shall not exceed twenty-five (25) active cases.

(4) Nothing in this section shall prevent the department or a social service worker from handling emergencies to carry out statutory mandates. If the monthly statewide caseload average for social service workers exceeds twenty-five (25) active cases for ninety (90) consecutive days, the department shall report the fact to the Governor and to the Legislative Research Commission together with a description of the factors contributing thereto and shall make recommendations related thereto. The report shall include, by county and district, social service worker caseload averages; the number of established social service worker positions; and the number of vacant social service worker positions.

Section 176. KRS 199.462 is amended to read as follows:

(1) Before an applicant is approved to provide foster care or relative caregiver services to a child, or approved to receive a child for adoption, the Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall:

(a) Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of State Police and the Federal Bureau of Investigation; or

(b) Request from the Justice Cabinet records of all conviction information for the applicant and any of the applicant's adult household members. The Justice Cabinet shall furnish the information to the Cabinet for ***Health and Family Services***[~~Families and Children~~] and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

(3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for ***Health and Family Services***[~~Families and Children~~] may require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section.

(4) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall promulgate an administrative regulation to implement this section.

Section 177. KRS 199.467 is amended to read as follows:

Pursuant to the requirements of the Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96-272, the secretary for ***health and family services***[~~families and children~~] shall adopt by regulation specific goals for each fiscal year for the cabinet as to the maximum number of children, (either in absolute numbers or as a percentage of all children in foster care with respect to whom assistance is provided in that year) who, at any time during such fiscal year, will remain in foster care after having been in such care for a period in excess of twenty-four (24) months, together with a description of the steps to be taken by the state to achieve such goals.

Section 178. KRS 199.473 is amended to read as follows:

(1) All persons other than a child-placing agency or institution, the department, or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child. Prior to the approval of an application to place or receive a child, together with the fee required pursuant to subsection (6) of this section, the secretary shall cause the investigation to be made by a Cabinet for ***Health and Family Services***[~~Families and Children~~] social worker unless the applicant specifies in the application that the investigation shall be done by an adoption worker of the home and the background of the person or persons wishing to receive the child. The portion of the investigation pertaining to the home and family background shall be valid for one (1) year following the date of its completion by an adoption worker. The purpose of the investigation shall be to determine the suitability of the applicants to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made. The adoption worker making the investigation shall make a finding in writing recommending either that the application be granted or that the application be denied. In either case, reasons for the adoption worker's recommendation shall be given in writing. The recommendation of the adoption worker shall then be reviewed by the secretary. Based on the report and recommendation of the adoption worker making the investigation, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching a decision, the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological, and psychiatric standpoint. If the application is refused, the secretary shall in general terms furnish in writing the reasons for his refusal.

(2) Upon a finding by the Circuit Court that the child should be placed prior to the secretary's ruling on the application, the Circuit Court may grant the applicant temporary custody of the child pending the decision of the secretary. If the application is denied, the temporary custody order shall be set aside and, upon motion of the cabinet or of the child's parent or parents, the Circuit Court may order the child returned to the biological parent or parents or the child's custody may be awarded to the cabinet, another licensed child-placing agency, or other individuals deemed appropriate by the court. This section shall not be deemed to permit the completion of any adoption proceeding without the approval of the secretary and compliance with KRS 615.030, if required.

(3) In any case where the cabinet refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with that person or those persons for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the biological or proposed adopting parent or parents shall appeal to the Circuit Court of the county in which the adoption is proposed. No placement shall be disapproved on the basis of the religious, ethnic, racial, or interfaith background of the adoptive applicant, if the placement is made with the consent of the parent. The cabinet may refuse to approve the placement of a child for adoption if the child's custodial parent is unwilling for the child to be placed for adoption with the proposed adoptive family. The cabinet may approve or deny the placement, in spite of the fact that the custodial parent or parents are unwilling to be interviewed by the cabinet or other approving entity, or if, after diligent efforts have been made, the adoption worker is unable to locate or interview the custodial parent or parents. The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in a manner that constitutes an abuse of discretion.

(4) If a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for ***health and family services***[~~families and children~~], or if permission to receive a child has been denied, a representative of the cabinet may petition the juvenile session of District Court of the county in

which the child is found setting out the facts concerning the child. When the petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected, or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants who are to receive the child unless permission to do so is granted by the secretary or the action is ordered by a Kentucky court of competent jurisdiction.

(5) When either the custodial parent or parents of the child to be placed or the persons wishing to receive the child reside out-of-state, the requirement of KRS 615.030, Interstate Compact on the Placement of Children, shall be met before the cabinet gives approval for the child's placement.

(6) The secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall be paid a nonrefundable fee of one hundred fifty dollars ($150) upon the filing of the written application for permission to place or receive a child. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special-needs child as authorized in KRS 199.555.

(7) Nothing in this statute shall be construed to limit the authority of the cabinet or a child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of District Court or the Circuit Court, prior to the filing of an application to place or receive.

Section 179. KRS 199.490 is amended to read as follows:

(1) The petition shall allege:

- (a) The name, date, place of birth, place of residence, and mailing address of each petitioner, and, if married, the date and place of their marriage;
- (b) The name, date, place of birth, place of residence, and mailing address, if known, of the child sought to be adopted;
- (c) Relationship, if any, of the child to each petitioner;
- (d) Full name by which the child shall be known after adoption;
- (e) A full description of the property, if any, of the child so far as it is known to the petitioner;
- (f) The names of the parents of the child and the address of each living parent, if known. The name of the biological father of a child born out of wedlock shall not be given unless paternity is established in a legal action, or unless an affidavit is filed stating that the affiant is the father of the child. If certified copies of orders terminating parental rights are filed as provided in subsection (2) of this section, the name of any parent whose rights have been terminated shall not be given;
- (g) The name and address of the child's guardian, if any, or of the cabinet, institution, or agency having legal custody of the child;
- (h) Any further facts necessary for the location of the person or persons whose consent to the adoption is required, or whom KRS 199.480 requires to be made a party to or notified of the proceeding; and
- (i) If any fact required by this subsection to be alleged is unknown to the petitioners, the lack of knowledge shall be alleged.

(2) There shall be filed with the petition certified copies of any orders terminating parental rights. Any consent to adoption shall be filed prior to the entry of the adoption judgment.

(3) If the petitioner was not excepted by KRS 199.470(4) or (5), a copy of the written approval of the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~] or the secretary's designee shall be filed with the petition.

Section 180. KRS 199.555 is amended to read as follows:

(1) A "special-needs child" means:

- (a) A child which the state has determined cannot or should not be returned to the home of the child's parents; and
- (b) A child which the state has first determined:
  1. That there exists a specific factor or condition the existence of which leads to the reasonable conclusion that the child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX; and
  2. That except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of these parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX.

(2) "State-funded adoption assistance" means payment of monthly maintenance to assist in meeting the special needs of a child which was placed by the Cabinet for ***Health and Family Services***[~~Families and Children~~]. The state-funded adoption assistance shall also include payment of nonrecurring adoption expenses, and may include reimbursement of extraordinary medical expenses.

(3) "Nonrecurring adoption expenses" means those expenses which are incurred in the legal adoption of a special-needs child for which parents are ultimately responsible which include reasonable and necessary adoption fees, court costs, attorney

fees, and other expenses which are directly related to the special-needs adoption and which are not incurred in violation of state or federal law.

(4) "Extraordinary medical expenses" means those expenses which are related to the child's special needs which existed prior to the adoption and are not reimbursed by private insurance, Medicaid, or other third-party payors or government programs.

(5) If the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~] or his designated representative finds that a child may benefit from being adopted and that the payment of a subsidy to adoptive parents after the adoption will increase the likelihood of adoption, funds may be paid to the adoptive parents after completion of the adoption of the child if the following conditions exist:

- (a) The child was considered a special-needs child prior to the adoption;
- (b) The child is committed to the Cabinet for ***Health and Family Services***[~~Families and Children~~] and the cabinet has authority to consent to the child's adoption; and
- (c) The adoptive parents can give suitable care to the child if a subsidy is paid.

(6) Agreements for the payments of funds under this section shall be made prior to the adoption of the child. However, if the secretary for ***health and family services***[~~families and children~~] or his designated representative finds that the adoption is likely to disrupt, extraordinary medical expenses may be reimbursed contingent upon availability of resources, if the following conditions exist:

- (a) The child was placed for adoption by the Cabinet for ***Health and Family Services***[~~Families and Children~~];
- (b) The child was considered a special-needs child prior to the adoption;
- (c) The parents have made a reasonable effort under the circumstances to meet the needs of the child without reimbursement for extraordinary medical expenses.

This subsection shall apply to any child meeting the conditions of this subsection who at the time of application for the post-adoption extraordinary medical expenses is under the age of eighteen (18). This subsection shall have retroactive as well as prospective effect.

(7) The payments shall be out of funds appropriated to the cabinet and those funds collected pursuant to KRS 199.473(6) which shall be deposited in a restricted account for the purpose of subsidizing special-needs adoptions, and shall be in accordance with regulations promulgated by the secretary. The payments shall not exceed the amount which would be paid for foster care for the child. Monthly maintenance payments shall not exceed the amount which would be paid for foster care for the child and may include reimbursement for extraordinary medical expenses. Payment of nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary for ***health and family services***[~~families and children~~] in accord with 42 U.S.C. sec. 673. However, payments under agreements entered into under subsection (6) of this section shall be limited to reimbursement of authorized extraordinary medical expenses related to problems or conditions that existed prior to the adoption.

(8) State-funded adoption assistance payments shall not be made to parents if:

- (a) The child has attained the age of eighteen (18), except that if the child is enrolled in a state or federal educational program, the payments may continue through age twenty-one (21);
- (b) The cabinet determines the parents are no longer legally responsible for the support of the child; or
- (c) The cabinet determines that the child is no longer receiving any support from the parents.

(9) Parents who have been receiving adoption assistance payments under this section shall keep the cabinet informed of circumstances which would, pursuant to subsection (8) of this section, make them ineligible for assistance, or eligible for assistance in a different amount.

(10) The cabinet shall establish criteria to be followed for the adoption of children under provisions of this section and shall promulgate the criteria by administrative regulations.

Section 181. KRS 199.557 is amended to read as follows:

(1) For the purpose of this section, unless the context requires otherwise, "Federal Title IV-E adoption assistance" means the payment of monthly maintenance to assist in meeting the special needs of the child and of nonrecurring adoption expenses which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to legal adoption of a special-needs child and which are not incurred in violation of state or federal law.

(2) If the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~] or his designated representative finds that payment of a subsidy to adoptive parents after the adoption will increase the likelihood of the adoption, funds may be paid to the adoptive parents after conclusion of the adoption if the child meets the eligibility criteria established at 42 U.S.C. sec. 673.

(3) Agreements for Federal Title IV-E adoption assistance under this section shall be made prior to the adoption of the child.

(4) Payment shall be out of funds appropriated to the cabinet and Federal Title IV-E funds of the Social Security Act as amended (42 U.S.C. secs. 673 et seq.). All payments shall be in accordance with administrative regulations promulgated by the Cabinet for ***Health and Family Services***[~~Families and Children~~]. Payments shall not exceed the amount which would

be paid for foster care for the child. Nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~] or his designated representative in accordance with 42 U.S.C. secs. 673 et seq.

Section 182. KRS 199.570 is amended to read as follows:

(1) (a) The files and records of the court during adoption proceedings shall not be open to inspection by persons other than parties to the proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection.

(b) Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court, except that upon the written consent of the biological parents and upon written order of the Circuit Court all papers and records including all files and records of the Circuit Court during proceedings for termination of parental rights provided in KRS 625.108 shall be open for inspection to any adult adopted person who applies in person or in writing to the Circuit Court as provided in KRS 199.572. Health information received pursuant to KRS 199.525 shall be added to the adoption case file. The clerk of the Circuit Court shall set up a separate docket and order book for adoption cases and these files and records shall be kept locked.

(c) No person having charge of any adoption records shall disclose the names of any parties appearing in such records or furnish any copy of any such records to any person or other entity that does not meet the requirements of KRS 199.572, except upon order of the court which entered the judgment of adoption.

(2) After entry of the adoption judgment, the clerk of the Circuit Court shall promptly report to the Cabinet for Health ***and Family*** Services of Kentucky full information as called for on forms furnished by the Cabinet for Health ***and Family*** Services, necessary to make a new birth certificate conforming to the standard birth certificate form. Upon receipt of this information, the Cabinet for Health ***and Family*** Services shall cause to be made a new record of the birth and it shall be filed with the original certificate, and the original certificate shall be stamped with the words, "CONFIDENTIAL -- subject to copy and/or inspection only on written order of the court."

(3) The new certificate shall set forth the new name, if any, of the adopted child, the names of the adoptive parents, and such other information deemed necessary in accordance with rules and regulations promulgated by the Cabinet for Health ***and Family*** Services in issuing of birth certificates. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the biological parent or parents of the child. If requested by the adoptive parents, the new birth certificate when issued shall contain the location of birth, hospital, and name of doctor or midwife. This information should be given only by an order of the court in which the child was adopted. The new birth certificate shall recite the residence of the adoptive parents as the birthplace of the child and this shall be deemed for all legal purposes to be the birthplace of the child. If no birth certificate is on file for a child born in Kentucky, the Cabinet for Health ***and Family*** Services shall prepare a certificate of birth in accordance with the information furnished the cabinet by the clerk of the Circuit Court which issued the adoption order. The Cabinet for Health ***and Family*** Services shall furnish to the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section. If the child was born in another state, the order of adoption shall be forwarded to the division of vital statistics of the state concerned to be changed in accordance with the laws of such state. If the child was born in a foreign country, the report of adoption shall be returned to the attorney or agency handling the adoption for submission to the appropriate federal agency.

(4) Thereafter when any copy of the certificate of birth of any child is issued it shall be a copy of the new certificate of birth, except when an order of the court granting the judgment of adoption shall request the issuance of the copy of the original certificate of the child's birth.

(5) If any judgment of adoption is reversed, modified, or vacated in any particular, the clerk of the Circuit Court shall notify the Cabinet for Health ***and Family*** Services of the reversal or modification and the effect of same, and the cabinet shall make any necessary changes in its records.

Section 183. KRS 199.572 is amended to read as follows:

(1) At the time the biological parents give up the child for adoption, they shall be asked by the cabinet whether they consent to the inspection of the adoption records, to personal contact by the child, or to both when he becomes an adult. If consent is then given, it can later be revoked. If consent is withheld at that time, the biological parents may give consent at any later time. The initial written statement of consent or refusal of consent to inspection of records and personal contact shall be filed with the Circuit Court not later than the date of finalization of the adoption proceedings. When a written consent is on file, the records shall be available to the adult adopted person, upon his request therefor in writing.

(2) When any adult adopted person applies in person or in writing to the Circuit Court for authorization to inspect all papers and records pertaining to the adoption proceedings of that adult adopted person as provided in KRS 199.570(1), and the biological parents have previously refused consent to inspection of records and to personal contact, the court may, if satisfied as to the identity of the adult adopted person, authorize the adult adopted person to inspect the papers and records if written consent is obtained from the biological parents identified on the adult adopted person's original birth certificate.

(3) The Circuit Court shall, within seven (7) working days of the receipt of the request, direct the secretary of the cabinet to notify each biological parent identified on the adult adopted person's original birth certificate that the person has applied to

the court for information identifying the biological parent. Within six (6) months of receiving the notice of the request of the adult adopted person, the secretary of the cabinet shall make complete and reasonable efforts to notify each biological parent identified on the adult adopted person's original birth certificate. The secretary may charge a reasonable fee not to exceed two hundred fifty dollars ($250) to the adult adopted person for making this search. Every child-caring facility and child-placing agency in the Commonwealth shall cooperate with the secretary in his efforts to notify these biological parents.

(4) If the cabinet utilizes the services of another person or entity to perform a search under subsection (3) of this section, the cabinet shall enter into a formal contract with that person or entity. A person or entity contracted to perform a search shall be licensed under the provisions of KRS Chapter 329A.

(5) The notification of the biological parents shall not be by mail and shall be by personal and confidential contact by the cabinet. The notification shall be done without disclosing the identity of the adult adopted person. The personal and confidential contact with the biological parents shall be evidenced by filing with the Circuit Court an affidavit of notification executed by the person who notified each parent and certifying each parent was given the following information:

(a) The nature of the information requested by the adult adopted person;

(b) The date of the request of the adult adopted person;

(c) The right of the biological parent to file, within sixty (60) days of receipt of the notice, an affidavit with the Circuit Court stating that the adult adopted person shall be authorized to inspect all papers and records pertaining to his adoption proceedings;

(d) The right of the biological parent to file at any time an affidavit authorizing the adult adopted person to inspect all papers and records pertaining to his adoption proceedings; and

(e) The right of a biological parent to file an affidavit with the Circuit Court stating that all papers and records pertaining to the adoption proceedings of the adult adopted person shall not be open for inspection by the adult adopted person.

(6) The adult adopted person shall not be authorized to inspect the papers and records pertaining to his or her adoption proceedings unless those biological parents identified on the original birth certificate agree in writing to that inspection.

(7) If after diligent and reasonable effort, the secretary of the cabinet certifies that both biological parents identified in the original birth certificate are deceased or the secretary is unable to locate said parents, then a judge of the Circuit Court, upon motion of the adult adopted person, may order that all papers and records of the Cabinet for ***Health and Family Services***~~[Families and Children]~~ and those of the Circuit Court pertaining to the adoption shall be open for inspection to the adult adopted person. In any case, the court shall order that only identifying information about the biological parents be shared with the adult adopted person.

Section 184. KRS 199.575 is amended to read as follows:

In situations where a preadoptive brother or sister relationship existed, and one (1) or more of these siblings was then adopted, the following procedures shall be followed on an inquiry by one (1) or more of the siblings to the Cabinet for ***Health and Family Services***~~[Families and Children]~~ seeking information about his brother or sister:

(1) In all cases, an adopted person eighteen (18) years of age or older or a pre-adoptive sibling eighteen (18) years of age or older of an adopted person may file information concerning himself, his present location, and his known antecedents with the Cabinet for ***Health and Family Services***~~[Families and Children]~~, stating his interest in being reunited with his pre-adoptive siblings and authorizing the cabinet to release such information to his pre-adoptive siblings who may make similar inquiry.

(2) In any case in which a person eighteen (18) years of age or older requests information about or expresses a desire in being reunited with a pre-adoptive sibling, the cabinet shall first determine whether such sibling has made similar inquiry pursuant to subsection (1) of this section. If the sibling has previously authorized release of information about himself, the cabinet shall release the information to the sibling making inquiry.

Section 185. KRS 199.590 is amended to read as follows:

(1) A person, corporation, or association shall not advertise in any manner that it will receive children for the purpose of adoption. A newspaper published in the Commonwealth of Kentucky or any other publication which is prepared, sold, or distributed in the Commonwealth of Kentucky shall not contain an advertisement which solicits children for adoption or solicits the custody of children.

(2) A person, agency, institution, or intermediary shall not sell or purchase or procure for sale or purchase any child for the purpose of adoption or any other purpose, including termination of parental rights. This section shall not prohibit a child-placing agency from charging a fee for adoption services. This section shall not be construed to prohibit in vitro fertilization. For purposes of this section, "in vitro fertilization" means the process by which an egg is removed from a woman, and fertilized in a receptacle by the sperm of the husband of the woman in whose womb the fertilized egg will thereafter be implanted.

(3) No person, association, or organization, other than the cabinet or a child-placing institution or agency shall place a child or

act as intermediary in the placement of a child for adoption or otherwise, except in the home of a stepparent, grandparent, sister, brother, aunt, or uncle, or upon written approval of the secretary. This subsection shall not be construed to limit the Cabinet for ***Health and Family Services***[~~Families and Children~~] in carrying out its public assistance under Title IV-A of the Federal Social Security Act program in accordance with KRS Chapter 205. This section shall not be construed to prohibit private independent adoption or the right to seek legal services relating to a private independent adoption.

(4) A person, agency, institution, or intermediary shall not be a party to a contract or agreement which would compensate a woman for her artificial insemination and subsequent termination of parental rights to a child born as a result of that artificial insemination. A person, agency, institution, or intermediary shall not receive compensation for the facilitation of contracts or agreements as proscribed by this subsection. Contracts or agreements entered into in violation of this subsection shall be void.

(5) A person, organization, group, agency, or any legal entity, except a child-placing agency, shall not accept any fee for bringing the adoptive parents together with the child to be adopted or the biological parents of the child to be adopted. This section shall not interfere with the legitimate practice of law by an attorney.

(6) (a) In every adoption proceeding, the expenses paid, including but not limited to any fees for legal services, placement services, and expenses of the biological parent or parents, by the prospective adoptive parents for any purpose related to the adoption shall be submitted to the court, supported by an affidavit, setting forth in detail a listing of expenses for the court's approval or modification.

(b) In the event the court modifies the expense request as it relates to legal fees and legal expenses only, the attorney for the adoptive parents shall not have any claim against the adoptive parents for the amount not approved.

Section 186. KRS 199.595 is amended to read as follows:

(1) The General Assembly finds that:

(a) Finding adoptive families for children, for whom state assistance is desirable pursuant to KRS 199.555, and assuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state; and

(b) Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

(2) The purposes of KRS 199.5951 to 199.5955 are to:

(a) Authorize the Cabinet for ***Health and Family Services***[~~Families and Children~~] to enter into interstate agreements with agencies of other states for protection of children on behalf of whom adoption assistance is being provided by the Cabinet for ***Health and Family Services***[~~Families and Children~~]; and

(b) Provide procedures for interstate children's adoption assistance payments, including medical payments.

Section 187. KRS 199.5951 is amended to read as follows:

(1) The Cabinet for ***Health and Family Services***[~~Families and Children~~] is authorized to develop, participate in the development of, negotiate and enter into one (1) or more interstate compacts on behalf of this state with other states to implement one (1) or more of the purposes set forth in KRS 199.595 to 199.5955. When so entered into, and for so long as it shall remain in force, such a compact shall have the force and effect of law.

(2) For the purposes of KRS 199.595 to 199.5955, the term "state" shall mean a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

(3) For the purposes of KRS 199.595 to 199.5955, the term "adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.

(4) For the purposes of KRS 199.595 to 199.5955, the term "residence state" means the state of which the child is a resident by virtue of the residence of the adoptive parents.

Section 188. KRS 199.5954 is amended to read as follows:

(1) A child with special needs residing in this state, who is the subject of an adoption assistance agreement with another state, shall be entitled to receive medical assistance from this state upon the filing in the Department for Community Based Services, Cabinet for ***Health and Family Services***[~~Families and Children~~], a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the Department for Medicaid Services, Cabinet for Health ***and Family*** Services, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(2) The Department for Medicaid Services, Cabinet for Health ***and Family*** Services shall consider recipients of medical assistance pursuant to this section as any other recipient of medical assistance under the laws of this state and shall process and make payment on claims on account of the recipient in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(3) The Department for Medicaid Services, Cabinet for Health ***and Family*** Services shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the Department for

Community Based Services, Cabinet for ***Health and Family Services***~~[Families and Children]~~, for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third-party medical contract or arrangement held by the child or the adoptive parents. The Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall make regulations implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, the regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

(4) The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading, or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed ten thousand dollars ($10,000) or imprisonment for not more than two (2) years, or both such fine and imprisonment.

(5) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

Section 189. KRS 199.5955 is amended to read as follows:

Consistent with federal law, the Cabinet for ***Health and Family Services***~~[Families and Children]~~, in connection with the administration of KRS 199.595 to 199.5955 and any compact pursuant hereto shall include in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272), Titles IV (e) and XIX of the Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall apply for and administer all relevant federal aid in accordance with law.

Section 190. KRS 199.641 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Allowable costs report" means a report from each child-caring facility that contracts with the department for services and includes all allowable costs as defined by the Federal Office of Management and Budget circular A-122, "cost principles for nonprofit organizations," and other information the department may require, utilizing cost data from each child-caring facility's most recent yearly audited financial statement;

(b) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility;

(c) "Department" means the Department for Community Based Services of the Cabinet for ***Health and Family Services***~~[Families and Children]~~;

(d) "Model program cost analysis" means a report based on a time study, the allowable costs report, and other information required by the department from each child-caring facility that contracts with the department for services that determines a statewide median cost for each licensed program category of service provided by child-caring facilities; and

(e) "Time study" means the process of reporting the work performed by employees of child-caring facilities in specified time periods.

(2) Subject to the limitations set forth in subsection (4) of this section, when the department chooses to contract with a nonprofit child-caring facility for services to a child committed to the department, the department shall make payments to that facility based on the rate setting methodology developed from the model program cost analysis. The department shall also assure that the methodology:

(a) Provides payment incentives for moving children as quickly as possible to a permanent, continuous, stable environment;

(b) Provides children who require out-of-home care or alternative treatment with placements that are as close as possible to their home geographic area; and

(c) Provides appropriate placement and treatment services that effectively and efficiently meet the needs of the child and the child's family as close as possible to the child's home geographic area.

(3) The department shall use the model program cost analysis as a basis for cost estimates for the development of the department's biennial budget request.

(4) The secretary shall, to the extent funds are appropriated, establish and implement the rate setting methodology and rate of payment by promulgation of administrative regulations in accordance with KRS Chapter 13A that are consistent with the level and quality of service provided by child-caring facilities. The administrative regulations shall also include the forms

and formats for the model program cost analysis.

Section 191. KRS 199.645 is amended to read as follows:

The Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall issue and enforce administrative regulations specifically addressing the unique situation of child-caring facilities and child-placing agencies which provide nonsecure care for children during the preadjudication phase of proceedings under KRS Chapter 630. These facilities and agencies shall include those operated privately and those operated by units of local government. These administrative regulations shall include standards relating to the following:

(1) Administration;
(2) Personnel;
(3) Training and staff development;
(4) Recordkeeping;
(5) Physical plant;
(6) Security and control;
(7) Safety and emergency procedures;
(8) Sanitation and hygiene;
(9) Medical services;
(10) Food services;
(11) Intake and classification;
(12) Programs and services;
(13) Resident rights;
(14) Rules and discipline;
(15) Admission procedures;
(16) Communication, including mail, visitation and telephone;
(17) Release preparation and transfer programs; and
(18) Volunteer involvement.

Section 192. KRS 199.892 is amended to read as follows:

In enacting legislation relating to the regulation of day-care centers, it is the intention of the General Assembly to enable the Cabinet for ***Health and Family Services***~~[Families and Children]~~ to qualify to receive federal funds under provisions of the Federal Social Security Act and to provide for effective regulation of day-care centers.

Section 193. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for ***Health and Family Services***~~[Families and Children]~~;

(2) "Secretary" means secretary for ***health and family services***~~[families and children]~~;

(3) "Child-care center" means any child-care center which provides full or part-time care, day or night, to at least seven (7) children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the operator. "Child-care center" shall not include any child-care facility operated by a religious organization while religious services are being conducted, or a youth development agency. For the purposes of this section, "youth development agency" means a program with tax-exempt status under 26 U.S.C. sec. 501(c)(3), which operates continuously throughout the year as an outside-school-hours center for youth who are six (6) years of age or older, and for which there are no fee or scheduled-care arrangements with the parent or guardian of the youth served;

(4) "Department" means the Department for Community Based Services; and

(5) "Family child-care home" means a private home that provides full or part-time care day or night for six (6) or fewer children who are not the children, siblings, stepchildren, grandchildren, nieces, nephews, or children in legal custody of the provider.

Section 194. KRS 199.8941 is amended to read as follows:

(1) The Early Childhood Development Authority shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish a program of monetary incentives including but not limited to an increased child-care subsidy and a one-time merit achievement award for child-care centers and certified family child-care homes that are tied to a quality rating system for child care as established under KRS 199.8943.

(2) The monetary incentive program shall be reviewed annually by the authority for the purpose of determining future opportunities to provide incentives.

(3) Participation in the program of monetary incentives and in the quality rating system by child-care centers and certified family child-care homes is voluntary.

(4) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall encourage the professional development of persons who are employed or provide training in a child-care or early childhood setting by facilitating their participation in the scholarship program for obtaining a child development associate credential, postsecondary certificate, diploma, degree, or specialty credential as established under KRS 164.518.

Section 195. KRS 199.8943 is amended to read as follows:

(1) The Early Childhood Development Authority shall, in consultation with child-care providers, the Cabinet for ***Health and Family Services***[~~Families and Children~~], the Cabinet for Health ***and Family*** Services, and others, including but not limited to child-care resource and referral agencies and family resource centers, develop a voluntary quality-based graduated child-care rating system for licensed child-care and certified family child-care homes based on, but not limited to:

(a) Child to caregiver ratios;

(b) Child-care staff training;

(c) Program curriculum; and

(d) Program regulatory compliance.

(2) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement:

(a) The voluntary quality-based graduated child-care rating system for child-care and certified family child-care homes developed under subsection (1) of this section;

(b) Agency time frames of reviews for rating;

(c) An appellate process under KRS Chapter 13B; and

(d) The ability of providers to request reevaluation for rating.

Section 196. KRS 199.899 is amended to read as follows:

(1) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall conduct a market-rate survey at least biennially to set the minimum rates paid by the cabinet for child-care services receiving public funds in the Commonwealth. The market-rate survey shall:

(a) Survey all child-care programs in the Commonwealth licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982;

(b) Determine market rates; and

(c) Make public its findings.

(2) In counties containing no more than two (2) child-care programs of the same type regulated by the cabinet, the cabinet shall pay the rate charged by the program up to the maximum allowable market rate, set in accordance with federal regulations, paid to a program of the same type in that area development district.

(3) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall evaluate, at least annually, the adequacy of the child-care subsidy to enable low income families in need of child-care services to obtain child care.

Section 197. KRS 199.8992 is amended to read as follows:

(1) To the extent possible with available funds, the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall develop through a system of contracts, a statewide network of community-based child-care resource and referral services. The network shall include one (1) resource and referral agency per area development district as designated by the cabinet. To avoid duplication of services, priority for receiving designation by the cabinet shall be given to existing child-care resource and referral organizations which are public or private, nonprofit, community-based agencies. Each resource and referral agency shall:

(a) Maintain a uniform database in a format developed by the cabinet of all child-care providers licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982 in the service area, including information on the availability of care;

(b) Provide consumer education to families seeking child-care services;

(c) Provide timely referrals of available child-care providers to families seeking child-care services;

(d) Recruit child-care providers in areas where there is an identified need as identified pursuant to paragraph (f) of this subsection;

(e) Coordinate, with the cabinet, training for child-care providers and provide technical assistance to employers, current and potential child-care providers, and the community at large;

(f) Collect and analyze data on the supply of, and demand for, child-care in the community;

(g) Stimulate employer involvement in improving the affordability, availability, safety, and quality of child care for their employees and for the community;

(h) Provide written educational materials to parents and child-care providers;

(i) Not operate a child-care center on behalf of an employer or on their own unless no existing provider is willing or able to provide the service at the current market rate. This paragraph shall not apply to child care provided by a resource and referral agency to an employer prior to July 14, 1992; and

(j) Form community early childhood councils in cooperation with family resource centers and other local organizations or agencies.

(2) To the extent possible with available funds, the cabinet shall award contracts in accordance with KRS Chapter 45A to:

(a) Coordinate existing resource and referral services;

(b) Expand resource and referral services to unserved areas; and

(c) Improve services provided by the designated resources and referral agency.

(3) When awarding the contracts provided for in subsection (2) of this section, priority shall be given to agencies which demonstrate the ability to provide local matching funds in an amount equal to twenty-five percent (25%) of the total amount of the contract. Contracts shall be awarded for a minimum period of up to one (1) year. Start-up contracts may be awarded in up to four (4) area development districts per year until each area development district has one (1) designated child-care resource and referral agency. The awarding of a contract pursuant to this section shall not create a continuing obligation for the cabinet to fund a resource and referral agency. The cabinet shall require applicants to submit a plan for providing the services required by subsection (1) of this section.

Section 198. KRS 199.8994 is amended to read as follows:

(1) All child-day-care funds administered by the cabinet, including Title XX of the Social Security Act, shall be administered by the Cabinet for ***Health and Family Services***[~~Families and Children~~] to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. To the extent permitted by federal law or regulations, requirements relating to application, eligibility, provider agreements, and payment for child-care services shall be the same regardless of the source of public funding.

(2) The cabinet shall, to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served, develop a system which provides a single intake point in each county through which parents seeking public subsidies for child-care services can make application.

(3) The cabinet shall, subject to the extent funds are available, cooperate with the Cabinet for Health ***and Family*** Services to fund and establish dedicated child-care licensing surveyor positions within the Division of Licensed Child Care to conduct all the cabinet's child-care licensing activities. The cabinet shall have the authority to request the transfer of funds to establish these positions. Where possible, dedicated child-care surveyors shall have expertise or experience in child-care or early childhood education.

(4) The targeted ratio of dedicated child-care licensing surveyor positions shall be one (1) surveyor for each fifty (50) child-care facilities in order to allow for the provision of an expedient, constructive, and thorough licensing visit.

(5) The cabinet shall, in cooperation with the Division of Licensed Child Care, Cabinet for Health ***and Family*** Services, provide appropriate specialized training for child-care surveyors.

(6) (a) The cabinet shall evaluate ways to improve the monitoring of unregulated child-care providers that receive a public subsidy for child care, and promulgate administrative regulations in accordance with KRS Chapter 13A that establish minimum health and safety standards, limitations on the maximum number of children in care, training requirements for a child-care provider that receives a child-care subsidy administered by the cabinet, and criteria for the denial of subsidies if criminal records indicate convictions that impact the safety and security of children in care.

(b) If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, it may take emergency action to deny a public subsidy for child-care services under KRS 13B.125.

Section 199. KRS 199.8996 is amended to read as follows:

(1) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall prepare the following reports to the General Assembly on child-care programs, and shall make them available to the public:

(a) A quarterly report detailing the number of children and amounts of child-care subsidies provided in each area development district;

(b) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;

(c) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and

(d) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all Kentucky counties.

(2) The cabinet shall file an annual report on its evaluation of the adequacy of the child-care subsidy to enable low-income families in need of child-care services to obtain child care with the Early Childhood Development Authority and the Legislative Research Commission.

(3) The cabinet shall file an annual report on the number of dedicated child-care licensing surveyor positions and the ratio of

surveyors to child-care facilities with the Early Childhood Development Authority and the Legislative Research Commission.

Section 200. KRS 199.900 is amended to read as follows:

(1) The secretary for ***health and family services***~~[families and children]~~ in coordination with the Personnel Cabinet is authorized to establish formal training programs within the Cabinet for ***Health and Family Services***~~[Families and Children]~~ or within any of the divisions or sections of the cabinet for the training of necessary personnel for the administration of the programs of the cabinet. When courses of study, applicable to the program processes of the cabinet, are not available through cabinet instruction, arrangements may be made for the training of employees in any public or private school or institution having available facilities for that purpose, and such training shall be deemed to be a part of the cabinet training program. Training of employees in public or private schools or institutions for this purpose shall be deemed a part of research assignments to be completed during the period of study, and these assignments are to relate directly to the work assignment of the employee. After consulting with the Personnel Cabinet, position classifications in the research series shall be established for employees on such work study assignments, and funds of the cabinet may be used to pay salaries commensurate with the appropriate classification while the employee is receiving training.

(2) Any employee who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of training, the state will hold a claim against him for the amount of salary paid during the training period, and he will repay to the cabinet the sum paid to him by the cabinet during the period of his training.

Section 201. KRS 200.010 is amended to read as follows:

As used in KRS Chapter 200, unless the context requires otherwise, "cabinet" means Cabinet for ***Health and Family Services***~~[Families and Children]~~.

Section 202. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children with an Emotional Disability. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

(1) This council shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Community Based Services, the commissioner of the Department for Public Health, the commissioner of the Department for Medicaid Services, the commissioner of the Department of Juvenile Justice, the director of the Office of Family Resource and Youth Services Centers, and the general manager of the ***Division***~~[Office]~~ of Juvenile Services of the Administrative Offices of the Courts, or their designees; and

(b) The Governor shall appoint one (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State Family Advisory Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members.

(2) The State Interagency Council for Services to Children with an Emotional Disability shall:

(a) Consider issues and make recommendations annually to the Governor and the Legislative Research Commission regarding the provision of services for children with an emotional disability;

(b) Direct each regional interagency council to coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination;

(c) Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with an emotional disability. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child;

(d) Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with an emotional disability referred by regional councils;

(e) Assess the effectiveness of regional councils in meeting the service needs of children with an emotional disability;

(f) Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council.

Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B;

(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;

(h) Adopt interagency agreements as necessary for coordinating services to children with an emotional disability by the agencies represented in the state council;

(i) Develop services to meet the needs of children with an emotional disability; and

(j) Promote services to prevent the emotional disability of a child.

(3) The State Interagency Council for Services to Children with an Emotional Disability may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.

Section 203. KRS 200.507 is amended to read as follows:

The secretary for ***health and family services***[~~families and children~~], the designee of the State Department of Education, and the executive director of the Administrative Offices of the Courts shall ensure that the State Interagency Council for Services to Children with an Emotional Disability is formed by August 1, 1990. No member of the State Interagency Council shall receive compensation other than that received as a state employee.

Section 204. KRS 200.509 is amended to read as follows:

(1) There are hereby created regional interagency councils for services to children with an emotional disability. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to children with an emotional disability shall be chaired by the service region administrator of the Department for Community Based Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members:

(a) The children's services coordinator from each regional community mental health center or their designee in the case of a multicouncil district;

(b) One (1) court, designated worker chosen by the Chief Regional District Judge within the region;

(c) One (1) specialist in special education chosen by the school district superintendents in the area served by the regional council;

(d) One (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability, and one (1) parent who meets the same criteria to serve as the parent member's alternate, who may attend and participate in all council meetings, but shall vote only in the absence of the parent member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment;

(e) Any other local public or private agency that provides services to children with an emotional disability which the regional interagency council may invite to have a representative become a permanent or temporary member of the council; and

(f) Representatives from the Department of Juvenile Justice and local health departments.

(2) No member of a regional interagency council for services to children with an emotional disability shall be given compensation in addition to that which they already receive as service providers or state employees, except that the parent members and alternate parent members of regional interagency councils shall be reimbursed for all expenses incurred through the performance of their duties as council members.

(3) Each regional interagency council for services to children with an emotional disability shall perform the following functions:

(a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;

(b) Coordinate the development of interagency service plans for children with an emotional disability in the least restrictive alternative mode of treatment;

(c) Identify the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with an emotional disability;

(d) Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner;

(e) Initiate and adopt interagency agreements as necessary for providing services to children with an emotional disability by the agencies represented in the regional council;

(f) Advise the state interagency council regarding service delivery to children with an emotional disability within the region;

(g) Refer those children for whom the regional councils cannot provide adequate services to the state interagency council;

(h) Implement the uniform grievance procedure established by the state interagency council;

(i) Make periodic reports to the state interagency council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child;

(j) Recognize local interagency councils for services to children with an emotional disability when it determines the council would be beneficial to service delivery; and

(k) Promote services to prevent the emotional disability of a child.

(4) The secretary for ***health and family services***[~~families and children~~] and the designee of the State Department of Education shall ensure that regional councils for services to children with an emotional disability are formed by October 1, 1990.

(5) Local interagency councils for services to children with an emotional disability may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for children with an emotional disability within a city, county, or other local community.

Section 205. KRS 200.580 is amended to read as follows:

The secretary for ***health and family services***[~~families and children~~] shall:

(1) Make those services to children and their families known as "family preservation services" accessible to forty percent (40%) of children at imminent risk of being placed outside their homes by 1995 and eventually to all cases where the removal of a child is imminent and provision of such services appropriate;

(2) Ensure that the statewide availability of family preservation services be accomplished in an orderly fashion allowing the development and evaluation of different program models necessary to provide services across the geographic diversity of the state; and

(3) Accomplish the implementation of family preservation services by consultation with professionals in the child welfare field, using any technical assistance available from the National Conference of State Legislatures and the Center for the Study of Social Policy.

Section 206. KRS 200.585 is amended to read as follows:

(1) The Department for Community Based Services shall be the lead administrative agency for family preservation services and may receive funding for the implementation of these services. The Department for Community Based Services shall:

(a) Provide the coordination of and planning for the implementation of family preservation services;

(b) Provide standards for family preservation services programs;

(c) Monitor these services to ensure they meet measurable standards of performance as set forth in state law and as developed by the Department for Community Based Services; and

(d) Provide the initial training and approve any ongoing training required by providers of family preservation services.

(2) The Department for Community Based Services may provide family preservation services directly or may contract with a private, nonprofit social service agency to provide these services. In the event the department provides family preservation services with state caseworkers, those caseworkers and cases shall be excluded for the overall caseworker/case averages provided on a quarterly basis to the Legislative Research Commission and the Governor's office under KRS 199.461. Family preservation services caseworkers and cases shall be included in the report as a separate category.

(3) In the event a nonprofit social service agency is contracted by the Department for Community Based Services, to provide family preservation services, the contract shall include:

(a) Requirements for provider acceptance of any client referred by the Cabinet for ***Health and Family Services***[~~Families and Children~~] for family preservation services;

(b) Limitation of caseload to four (4) or fewer families per caseworker;

(c) Provision of twenty-four (24) hour crisis intervention services to families served by the program;

(d) Provision for training of family preservation services staff to meet the following minimum standards:

1. Intensive training of not less than forty (40) hours to any therapist before family preservation services clients are assigned. This training is to be provided by individuals with recognized expertise regarding family preservation services and is to concern itself with the required knowledge skills, and techniques for success within the family preservation services model;

2. A plan for the continuing education of staff therapists after the initial forty (40) hours;

3. Training of not less than twenty (20) hours for a paraprofessional family aide before provision of services without the direct supervision of a family preservation services caseworker;

(e) Provide for and conduct internal program evaluation and cooperate with external evaluation as directed by the Department for Community Based Services;

(4) To qualify for continued funding under subsection (3) of this section, an agency contracting to provide family preservation services shall demonstrate an annual success rate of seventy-five percent (75%) in avoiding out-of-home placement six (6) months after the cessation of family preservation services.

Section 207. KRS 200.595 is amended to read as follows:

(1) The provision of family preservation services to a family shall constitute a reasonable effort by the Cabinet for ***Health and Family Services***[~~Families and Children~~] to prevent the removal of a child from the child's home under KRS 620.140, provided that the family has received timely access to other services from the Cabinet for ***Health and Family Services***[~~Families and Children~~] for which the family is eligible.

(2) Acceptance of family preservation services shall not be considered an admission of any allegation that initiated the investigation of the family, nor shall refusal of family preservation services be considered as evidence in any proceeding except where the issue is whether the Cabinet for ***Health and Family Services***[~~Families and Children~~] has made reasonable efforts to prevent removal of a child.

(3) No family preservation services program shall compel any family member to engage in any activity or refrain from any activity which is not reasonably related to remedying a condition or conditions that gave rise or which could reasonably give rise to any finding of child abuse, neglect, or dependency.

Section 208. KRS 200.600 is amended to read as follows:

(1) The secretary for ***health and family services***[~~families and children~~] shall conduct a yearly evaluation of family preservation services which shall include the following:

(a) The number of families in which family preservation services would be an available alternative to placement of the child if available;

(b) The number of families receiving family preservation services, the number of children in those families, and the number of children in those families who would have been placed in out-of-home care if family preservation services had not been available;

(c) Among those families receiving family preservation services, the number of children placed outside the home;

(d) The average cost per family of providing family preservation services;

(e) The estimated cost of out-of-home placement which would have been expended on behalf of those children who received family preservation services based on average lengths of stay and average costs of out-of-home placements;

(f) The number of children who remain unified with their families six (6) months and one (1) year after completion of family preservation services; and

(g) An overall evaluation of the progress of family preservation services programs during the preceding year, recommendations for improvements in delivery of this service, and a plan for the continued development of family preservation services to ensure progress toward statewide availability.

Section 209. KRS 200.605 is amended to read as follows:

(1) The secretary for ***health and family services***[~~families and children~~] may redirect funds from amounts budgeted to serve children in out-of-home placement for the purposes of providing family preservation services to children who would otherwise be removed from their homes.

(2) The secretary for ***health and family services***[~~families and children~~] may use any funds that become available through an increase in reimbursement of funds from Title 4-E of the Social Security Act as amended by Pub. L. 96-272 for the purposes of providing family preservation services to children who would otherwise be removed from their homes.

Section 210. KRS 200.654 is amended to read as follows:

As used in KRS 200.650 to 200.676, unless the context requires otherwise:

(1) "Awards and contracts" means the state and federal funds designated by the cabinet for projects relating to planning, resource development, or provision of direct early intervention services, as defined in this section, to infants and toddlers with disabilities and their families;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(3) "Child find" means a system to identify, locate, and evaluate all infants and toddlers with disabilities who are eligible for early intervention services, determine which children are receiving services, and coordinate the effort with other state agencies and departments;

(4) "Council" means the Kentucky Early Intervention System Interagency Coordinating Council;

(5) "District" means one (1) of the fifteen (15) area development districts;

(6) "District early intervention committee" means an interagency coordinating committee established within each of the fifteen (15) area development districts to facilitate interagency coordination at the district level;

(7) "Early intervention services" means services for infants and toddlers with disabilities and their families delivered according to an individualized family service plan developed by the child multidisciplinary team to meet the developmental needs of eligible children, as defined in this section, and provided by entities receiving public funds using qualified personnel. The individualized family services plan is developed and the services are provided in collaboration with the families and, to the maximum extent appropriate, in natural environments, including home and community settings in which infants and toddlers without disabilities would participate. These services are necessary to enable the child to reach maximum potential. Services to be made available shall include but not be limited to the following:

- (a) Screening services;
- (b) Evaluation services;
- (c) Assessment services;
- (d) Service coordination;
- (e) Transportation and related costs for accessing early intervention services;
- (f) Family services including counseling, psychological, and social work services;
- (g) Health services including medical services for diagnostic and evaluation purposes only;
- (h) Nutrition services;
- (i) Occupational therapy services;
- (j) Physical therapy services;
- (k) Communication development services;
- (l) Sensory development services;
- (m) Developmental intervention services;
- (n) Assistive technology services; and
- (o) Respite services;

(8) "Early intervention system" means the management structure established in KRS 200.654 to 200.670 and which is comprised of the interdependent array of services and activities for the provision of a statewide, comprehensive, coordinated, multidisciplinary, interagency program for infants and toddlers with disabilities and their families;

(9) "Individual family service plan" means the singular comprehensive written service plan developed by the child's multidisciplinary team, with the child's parents serving as fully participating members of the team, to be followed by all agencies and other entities involved in providing early intervention services to an infant or toddler with disabilities and the child's family;

(10) "Infants and toddlers with disabilities" and "eligible children" mean children from birth to thirty-six (36) months of age in need of early intervention services as a result of one (1) of the following circumstances:

- (a) The child is experiencing developmental delays, as measured by diagnostic instruments and procedures in one (1) or more of the following skill areas: physical; cognitive; communication; social or emotional; or adaptive development;
- (b) The child has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; or
- (c) The child has a diagnosis of pervasive developmental disorder;

(11) "Multidisciplinary team" means the child-specific group responsible for determining the services needed by the infant or toddler with disabilities and the child's family, and development of the individualized family services plan. The team for each child shall include the parent or guardian of the child and individuals representing at least two (2) applicable disciplines which may include but need not be limited to the following: physical therapy; speech therapy; social work; nursing; or education;

(12) "Point of entry" means an easily identifiable, highly accessible nonstigmatized entry into services; and

(13) "Qualified service provider" means an entity, including but not limited to an individual, program, department, or agency, responsible for the delivery of early intervention services to eligible infants and toddlers with disabilities and their families who has met the highest minimum standards of state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the entity is providing early intervention services.

Section 211. KRS 200.656 is amended to read as follows:

There is hereby created in state government the Kentucky Early Intervention System to provide services for infants and toddlers with a disability and their families. For administrative purposes, the Kentucky Early Intervention System shall be attached to the Cabinet for Health ***and Family*** Services.

Section 212. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(3) "Cabinet" means the Kentucky Cabinet for Health ***and Family*** Services;

(4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

  (a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health ***and Family*** Services as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

  (b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;

(9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;

(10) "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental health professional" means:

  (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

  (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

  (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

  (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

  (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

  (f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program; or

  (g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(15) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services.

Section 213. KRS 202A.201 is amended to read as follows:

(1) When an inmate of any penal and correctional institution is reported by the staff of that institution to the Department of Corrections as being so mentally ill that he cannot be properly treated with the facilities at the disposal of the staff, the Department of Corrections shall have an examination conducted on the inmate by a mental health professional.

(2) If this examination reveals that the inmate is mentally ill and appropriate treatment cannot be properly carried out in the institution in which he is incarcerated or within the facilities at the disposal of the Department of Corrections, the commissioner of the Department of Corrections may then request of the secretary of the Cabinet for Health ***and Family*** Services the inmate's transfer to a hospital or forensic psychiatric facility. If the secretary of the Cabinet for Health ***and Family*** Services agrees that a transfer is necessary, the person shall be transferred to a Cabinet for Health ***and Family*** Services facility designated by the secretary of the Cabinet for Health ***and Family*** Services, where the person shall remain until the staff of the facility which received him advises the commissioner of the Department of Corrections that the person's condition is such that he may be returned to the institution from which he came. No transfer shall be made to a correctional facility located on the grounds of a state mental hospital. The commissioner of the Department of Corrections shall then authorize his return. If the prisoner's sentence expires during his stay in the facility and he is still in need of involuntary hospitalization, the staff of the facility shall petition the applicable District Court for further involuntary hospitalization of the patient under provisions of this chapter.

(3) Prior to the issuance of an order of transfer and unless the prisoner voluntarily agrees to the transfer, the commissioner shall:

(a) Send written notice to the prisoner that a transfer to a hospital or forensic psychiatric facility is being considered in sufficient time to permit the prisoner to prepare for the hearing;

(b) Hold a hearing at which time the prisoner is made aware of the evidence being relied upon for the transfer and at which an opportunity to be heard in person and to present documentary evidence is given;

(c) Provide an opportunity at the hearing to the prisoner to present testimony of witnesses and to confront and cross-examine witnesses called by the Department of Corrections, except upon a finding, not arbitrarily made, of good cause for not permitting the presentation;

(d) Provide an independent decision maker who has not participated in the request for transfer to a hospital or forensic psychiatric facility;

(e) Issue a written statement by the fact finder as to the evidence relied on and the reasons for transferring the prisoner; and

(f) Provide effective and timely notice of all the foregoing rights.

(4) During the time of the prisoner's stay in a facility, his legal status as a prisoner shall remain unchanged until the termination of his sentence. The facility staff shall have no authority to parole, grant permission to visit relatives or friends outside the facility, or discharge the individual unless otherwise agreed to by the Department of Corrections. The time the prisoner spends in the facility shall be counted as a part of the prisoner's sentence.

Section 214. KRS 202A.241 is amended to read as follows:

All individuals transporting or holding persons under KRS Chapter 202A, 202B, or 645, shall use the least restrictive level of restraint consistent with the person's needs. The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations subject to the provisions of KRS Chapter 13A which shall include guidelines addressing the person's need for privacy, particularly when being restrained, and the person's ability to communicate by phone at the earliest opportunity available.

Section 215. KRS 202A.410 is amended to read as follows:

(1) When a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 is discharged or transferred from the facility, the administrator shall notify the law enforcement agency in the county to which the person is to be released, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.

(2) If a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 escapes from the facility, the administrator shall notify the law enforcement agency in the county in which the facility is located, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.

(3) The administrator of a psychiatric facility or forensic psychiatric facility, or the administrator's designee, who acts in good faith in making the notifications required in this section or is unable to provide the release information required, is immune

from any civil liability.

(4) The Department of Corrections shall notify, or contract with a private entity to notify, victims of crime who have made a notification request of the discharge or escape of a patient from a psychiatric facility or forensic psychiatric facility.

(5) The Department of Corrections and the Cabinet for Health ***and Family*** Services shall each promulgate administrative regulations under KRS Chapter 13A to carry out the duties set forth in this statute.

Section 216. KRS 202B.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a person who is employed as a physician of an ICF/MR;

(2) "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation, and individualized program planning and service implementation for the resident. The team is composed of a physician, a psychologist, a registered nurse, a social worker, and other professionals, at least one (1) of whom is a qualified mental retardation professional, and may include the resident, the resident's family, or the guardian;

(3) "Cabinet" means the Kentucky Cabinet for Health ***and Family*** Services;

(4) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health ***and Family*** Services as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment given in the least confining setting which will provide a mentally retarded person appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement;

(9) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;

(10) "ICF/MR" means an intermediate-care facility approved by the cabinet for the evaluation, care, and treatment of mentally retarded persons;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental retardation professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;

(c) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience of which one (1) year is with mentally retarded persons; or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who has three (3) years of inpatient or outpatient clinical experience of which one (1) year is in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services;

(d) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with two (2) years of inpatient or outpatient clinical experience in social work of which one (1) year shall be in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services;

(e) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program; or

 (f) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Resident" means a person under care or treatment in an ICF/MR pursuant to the provisions of this chapter;

(15) "Respondent" means a person alleged in a hearing under this chapter to be a mentally retarded person; and

(16) "Secretary" shall mean the secretary of the Cabinet for Health ***and Family*** Services.

Section 217. KRS 205.179 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall conduct an annual review of all addresses or locations at which four (4) or more persons reside who receive state supplementation of federal supplemental security income benefits to determine if the address or location is a boarding home that has not registered pursuant to KRS 216B.305. The results of the review shall be reported to the ***Division***[~~Office~~] of Aging Services and action shall be taken to ensure the registration of all unregistered boarding homes that are identified.

Section 218. KRS 205.180 is amended to read as follows:

The secretary for ***health and family services***[~~families and children~~] may authorize the destruction of such original reports and records as have been properly recorded or summarized in the permanent records of the cabinet or are no longer considered necessary to the proper administration of the cabinet. Such destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of such records shall be deposited to the credit of trust and agency accounts.

Section 219. KRS 205.201 is amended to read as follows:

The duties of the Cabinet for Health ***and Family*** Services shall be to:

(1) Promote and aid in the establishment of local programs and services for the aging;

(2) Conduct programs to educate the public as to problems of the aging;

(3) Review existing state programs and services for the aging and to make recommendations to the Governor, to the appropriate department and agencies of the state, and to the legislature for improvements in and additions to such programs and services;

(4) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of the aging;

(5) Conduct and encourage other organizations to conduct studies concerning the aging;

(6) Establish, in selected areas and communities of the state, programs of services for the aging to demonstrate the value of such programs, and to encourage local agencies to continue the programs and to create new services where needed. Emphasis shall be given to services designed to foster continued participation of older people in family and community life and to lessen the need for institutional care;

(7) Provide services designed to meet the needs of the minority elderly in programs administered by the cabinet. The cabinet shall annually prepare a report identifying the special needs of the minority elderly population in the Commonwealth as compared to the elderly population at large. The report shall be completed no later than October 1 of each year and transmitted to the Legislative Research Commission. The report shall, at a minimum:

 (a) Contain an overview of the health status of minority elderly Kentuckians;

 (b) Identify specific diseases and health conditions for which the minority elderly are at greater risk than the general population;

 (c) Identify problems experienced by the minority elderly in obtaining services from governmental agencies; and

 (d) Identify programs at the state and local level designed to specifically meet the needs of the minority elderly;

(8) In preparing the report required by subsection (7) of this section, the cabinet shall solicit and consider the input of individuals and organizations representing the concerns of the minority elderly population as relates to:

 (a) Programs and services needed by the minority elderly;

 (b) The extent to which existing programs do not meet the needs of the minority elderly;

 (c) The accessibility of existing programs to the minority elderly;

 (d) The availability and adequacy of information regarding existing services;

 (e) Health problems the minority elderly experience at a higher rate than the nonminority elderly population; and

 (f) Financial, social, and other barriers experienced by the minority elderly in obtaining services;

(9) Conduct an outreach program that provides information to minority elderly Kentuckians about health and social problems experienced by minority elderly persons and available programs to address those problems, as identified in the report prepared pursuant to subsection (7) of this section; and

(10) Cooperate with the federal government and with the governments of other states in programs relating to the aging.

Section 220. KRS 205.202 is amended to read as follows:

The secretary of the Cabinet for Health ***and Family*** Services shall be empowered to accept and expend gifts and grants from any source. Such moneys shall go into a trust and agency fund to be administered by the cabinet in furtherance of the purposes of the provisions of KRS 205.201 to 205.204.

Section 221. KRS 205.203 is amended to read as follows:

(1) The secretary of the Cabinet for Health ***and Family*** Services may provide, within budgetary limitations, for in-home services to the aging to include, but not necessarily limited to: homemaker services; home-help therapy services; day-care services; home-delivered meal services; transportation services; foster care services; and health services.

(2) The cabinet is authorized to collect fees for services rendered pursuant to this section in accordance with a fee schedule adopted by the secretary for health ***and family*** services. The fee schedule shall take into consideration the ability of the patient or client to pay for such services. Fees shall not be collected from any person who is "needy aged" as defined by KRS 205.010.

(3) The secretary may utilize and promote available or potential community resources for the delivery of services to the aging and shall, when he deems appropriate, contract for services with local, community, private agencies, and individuals, including relatives of patients and clients, when such services would not otherwise be available without cost.

(4) The services to the aging authorized under this section are in addition and supplementary to any services to which the aging may be entitled under any other federal, state, or local governmental law, regulation, or program.

(5) The services to the aging authorized under this section shall be designed to meet the needs of the minority elderly as identified by the Cabinet for Health ***and Family*** Services pursuant to KRS 205.201.

Section 222. KRS 205.204 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services, unless otherwise directed by an executive order of the Governor, is designated the agency of this state for the purpose of administering the Older Americans Act of 1965, Pub. L. 89-73, including all amendments thereto. In administering programs and allocating funds under the Older Americans Act, the cabinet shall design programs and allocate funds to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201.

(2) The secretary for health ***and family*** services may promulgate such administrative regulations as are necessary to comply with any requirement imposed or required by federal law.

Section 223. KRS 205.217 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

  (a) "Case manager" means an employee of the area development district or an agency under contract with the area development district who shall assist any functionally impaired person in identifying and accessing the long-term-care services most appropriate to the individual's social and medical needs.

  (b) "Functionally impaired person" means any person who is unable to perform without assistance any of the activities of daily living including, but not limited to dressing, bathing, toileting, transferring, or feeding, or any of the instrumental activities of daily living including but not limited to meal preparation, laundry, housecleaning, budgeting, and shopping.

(2) There shall be established within the Cabinet for Health ***and Family*** Services a Long-Term Care Case Management Demonstration Program to consolidate and coordinate all services provided or funded by the cabinet with respect to long-term care, conducted in at least three (3) area development districts. This demonstration program shall serve as the focal point for the provision of all services provided to functionally impaired persons to assure that services are consistent with the following goals:

  (a) That functionally impaired persons be allowed to live independently at home or with others as long as the citizen desires without requiring inappropriate or premature institutionalization;

  (b) That services provided or funded by the cabinet promote independent living by functionally impaired persons and prevent or minimize illness or social isolation;

  (c) That institutional services be used only as a last resort when in-home or community-based support services are not available or are not adequate to meet the needs of functionally impaired persons;

  (d) That a single entry point for all services for functionally impaired persons be available to all persons in need of information about or access to the services; and

  (e) That the use of informal providers of care, such as friends and relatives of functionally impaired persons, be used as long as possible before paid services are utilized.

(3) The following programs and services shall be included in the Long-Term Care Case Management Demonstration Program:

  (a) Hospital-based long-term-care services including dual-licensed beds, swing beds and physical rehabilitation services, skilled-nursing facility services, intermediate-care-facility services, nursing-facility services, home-health services, and home- and community-based waiver services funded by the Kentucky Medical Assistance Program;

  (b) In-home and community-based services for elderly persons funded under the Older Americans Act (42 U.S.C. secs.

3001 et seq.) and Title XX of the Social Security Act (42 U.S.C. secs. 1397-1397f);

(c) Services provided under the home care program pursuant to KRS 205.460; and

(d) Personal-care-home services or domiciliary care funded by supplemental payments to persons receiving supplemental security income benefits pursuant to KRS 205.245.

(4) The Long-Term Care Case Management Demonstration Program shall employ a system of case management to assure that appropriate services are provided to all persons using or applying for the services set forth in subsection (3) of this section, and that the services are consistent with the goals set forth in subsection (2) of this section. All persons applying for these services shall be assigned a case manager. The duties of the case manager shall include preparation of a general plan of care, based on the person's need for services, arranging placements or other needed services or equipment, coordination and management of the applicant through the eligibility process for these services, and reviewing each case on a periodic basis to assure the plan of care is being followed. Case management shall not include the determination of eligibility for Medicaid covered services, long-term-care facility preadmission reviews, level-of-care determinations for purposes of Medicaid reimbursement, or peer review activities. The general plan of care shall not replace a daily care plan prescribed by a physician for treatment of a person in a hospital or long-term-care facility or receiving home-health services. The general plan of care shall identify the categories of services or type of placement required and the providers of the services. Case managers shall serve as advocates for applicants for the services set forth in subsection (3) of this section, and shall interact with the existing administrative structure within the Cabinet for Health ***and Family*** Services to meet the goals stated in subsection (2) of this section. Patients discharged from a hospital to a long-term-care facility shall receive case management services in the hospital on a timely basis or immediately after admission to a long-term-care facility. The goal of each case plan shall be the provision of services in the least restrictive setting designed to best meet the individual needs of the functionally impaired person. When persons are determined to need services to maintain independent living, but do not meet the financial or eligibility criteria for services, case managers shall attempt to ensure that services are provided from community resources, family member, or volunteers.

(5) The cabinet, through the Long-Term Care Demonstration Program, shall provide access to information, counseling, and screening as appropriate, for persons potentially in need of long-term-care services without regard to the person's income, in order to assist functionally impaired persons in accessing available services. In administering the Long-Term Care Demonstration Program, the cabinet shall provide services to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201. The cabinet may charge a fee for providing information, counseling, and screening services based on the client's ability to pay.

(6) The secretary for health ***and family*** services may promulgate administrative regulations necessary to implement the Long-Term Care Demonstration Program.

Section 224. KRS 205.245 is amended to read as follows:

Money payments made by the Cabinet for ***Health and Family Services***[~~Families and Children~~] to the needy aged, needy blind, and the needy permanently and totally disabled shall be:

(1) Mandatory state supplementation of the supplemental security income program as established by federal law and regulations and administered in the manner agreed to by the secretary of the United States Department of Health, Education, and Welfare and the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~], or their authorized representatives; and

(2) Supplemental payments to persons requiring special living arrangements as they become eligible for the supplemental security income program, to insure the same level of care as those persons covered under the provisions of subsection (1) of this section.

Section 225. KRS 205.400 is amended to read as follows:

(1) There is established within the Cabinet for ***Health and Family Services***[~~Families and Children~~] an Energy Cost Assistance Program for making money payments to or on behalf of citizens of the Commonwealth for the purpose of purchasing or supplementing the cost of energy for household use.

(2) Citizens of the Commonwealth who incur expenses for providing energy by purchase from suppliers, by their own labors, or through the payment of rent, whether or not included in a charge for other goods and services, which includes the cost of energy supplied to premises occupied as their principal residence, shall be eligible to receive the benefit of the payments to themselves or to providers of energy to such household if:

(a) The citizen is sixty-two (62) years of age or older and has or is a member of a family having a gross income equal to or less than one hundred twenty-five percent (125%) of the poverty level of income for an individual or family of that size designated by the Community Services Administration of the United States government; or

(b) The citizen is blind or permanently and totally disabled and receiving supplemental security income benefits under the Social Security Act or is blind or permanently and totally disabled and is currently eligible for Medicaid benefits under the Medical Assistance Program.

(3) The cabinet shall establish by regulation a schedule of payments and benefit levels under this program to be based on income, resources, and family size. In no event shall payments be made to or on behalf of any person or family whose gross income from all sources exceeds one hundred twenty-five percent (125%) of the poverty level of income as provided

for such individuals or family by the Community Services Administration of the United States government.

(4) Payments made under this section shall be for a period of four (4) months during each twelve (12) month period for which funds are available. At its discretion and to insure the proper application of the funds appropriated for this purpose, the cabinet may elect to make payments to vendors or suppliers or jointly to vendors and eligible recipients.

Section 226. KRS 205.455 is amended to read as follows:

As used in KRS 205.460 and 205.465:

(1) "Chore services" means the performance of heavy housecleaning, minor household repairs, yard tasks, and other activities needed to assist in the maintenance of a functionally impaired elderly person in his own home.

(2) "Core services" means those services, including but not limited to client assessment and case management services, designed to identify a functionally impaired elderly person's needs, develop a plan of care, arrange for services, monitor the provision of services, and reassess the person's needs on a regular basis.

(3) "Cabinet" means the Cabinet for Health ***and Family*** Services.

(4) "District" means an area development district designated pursuant to KRS 147A.050.

(5) "Escort services" means the accompaniment of a person who requires such assistance for reasons of safety or protection to or from his physician, dentist, or other necessary services.

(6) "Essential services" means those services which are most needed to prevent unnecessary institutionalization of functionally impaired elderly persons. Essential services shall include chore services, home-delivered meals, home-health aide services, homemaker services, respite services, escort services, and home repair services.

(7) "Functionally impaired elderly person" means any person, sixty (60) years of age or older, with physical or mental limitations which restrict individual ability to perform the normal activities of daily living and which impede individual capacity to live independently, thus rendering such person at risk of entering an institution. Functional impairment shall be determined through a functional assessment developed by the cabinet and delivered to each applicant for essential services.

(8) "Home-delivered meals" means the provision of a nutritionally sound meal, that meets at least one-third (1/3) of the current daily recommended dietary allowance, to a functionally impaired elderly person who is homebound by reason of illness, incapacity, or disability.

(9) "Home-health aide services" means the performance of simple procedures, including but not limited to personal care, ambulation, exercises, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.

(10) "Homemaker services" means general household activities, including but not limited to nonmedical personal care, shopping, meal preparation, and routine household care, provided by a trained homemaker when the person regularly responsible for these activities is temporarily absent or unable to manage the home and care for himself or others in the home.

(11) "Home repair services" means the provision of minor home adaptations, additions, or modifications to enable the elderly to live independently or safely or to facilitate mobility including, where appropriate, emergency summons systems.

(12) "Respite services" means care provided by an approved caregiver or agency for a designated time period because of absence or need for relief of a primary caregiver.

Section 227. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) "Chiropractor" means a person authorized to practice chiropractic under KRS Chapter 312;

(2) "Council" means the Advisory Council for Medical Assistance;

(3) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

(4) "Health professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky;

(5) "Medical care" as used in this chapter means essential medical, surgical, chiropractic, dental, optometric, podiatric, telehealth, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;

(6) "Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;

(7) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which

provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;

(8) "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(9) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by administrative regulation of the secretary for health ***and family*** services or his designee;

(10) "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

(11) "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

(12) "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

(13) "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;

(14) "Public assistance recipient" means a person who has been certified by the Department for Community Based Services of the Cabinet for ***Health and Family Services***[~~Families and Children~~] as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(15) "Telehealth consultation" means a medical or health consultation, for purposes of patient diagnosis or treatment, that requires the use of advanced telecommunications technology, including, but not limited to:

(a) Compressed digital interactive video, audio, or data transmission;

(b) Clinical data transmission via computer imaging for teleradiology or telepathology; and

(c) Other technology that facilitates access to health care services or medical specialty expertise; and

(16) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including, but not limited to, a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparations Act, Subtitle 39 of KRS Chapter 304, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and

(17) "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health ***and Family*** Services directly to the authorized person or institution which rendered medical care to an eligible recipient.

Section 228. KRS 205.520 is amended to read as follows:

(1) KRS 205.510 to 205.630 shall be known as the "Medical Assistance Act."

(2) The General Assembly of the Commonwealth of Kentucky recognizes and declares that it is an essential function, duty, and responsibility of the state government to provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510 to 205.630 to provide such care.

(3) Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health ***and family*** services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.

(4) It is the intention of the General Assembly to comply with the provisions of Title XIX of the Social Security Act which require that the Kentucky Medical Assistance Program recover from third parties which have a legal liability to pay for care and services paid by the Kentucky Medical Assistance Program.

(5) The Kentucky Medical Assistance Program shall be the payor of last resort and its right to recover under KRS 205.622 to 205.630 shall be superior to any right of reimbursement, subrogation, or indemnity of any liable third party.

Section 229. KRS 205.525 is amended to read as follows:

(1) Concurrent with submitting an application for a waiver or waiver amendment or a request for a plan amendment to any federal agency that approves waivers, waiver amendments, and plan amendments, the Cabinet for Health ***and Family*** Services shall provide to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Appropriations and Revenue a copy, summary, and statement of benefits of the application for a waiver or waiver amendment or request for a plan amendment.

(2) The cabinet at least quarterly shall provide an update to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Appropriations and Revenue on the status of the application for a waiver or waiver amendment or request for a plan amendment.

Section 230. KRS 205.540 is amended to read as follows:

(1) An Advisory Council for Medical Assistance shall be established in the state government. The council shall consist of eighteen (18) members. The secretary for health ***and family*** services shall be an ex officio member. The other seventeen (17) members of the council shall be appointed by the Governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term

beginning on July 1, 1960, shall be as follows: Two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and three (3) for four (4) years, and the respective terms of the first members shall be designated by the Governor at the time of their appointments. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four (4) years and until his successor is appointed and qualified. Ten (10) of the appointments shall be made one (1) from each list of three (3) nominees submitted by the following organizations: the Kentucky State Medical Association; the Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky Pharmacists Association; the Kentucky Association of Health Care Facilities; the Kentucky Nurses' Association; the State Board of Podiatry; the Kentucky Home Health Association; the Kentucky Optometric Association; and the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc. The other seven (7) appointive members shall be health-care advocates knowledgeable about health care and the health-care industry, and shall include three (3) medical assistance recipients, one (1) representative of a recognized consumer advocacy group representing the elderly; and three (3) representatives of recognized consumer advocacy groups whose membership includes low-income persons, children and youth, women, minorities, and disabled persons.

(2) Each appointive member of the council shall serve without compensation but each council member not otherwise compensated for his time or expenses shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The council shall elect a chairman, vice chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

(5) No consumer member of the council shall have a fiduciary relationship or interest in any health-care facility or service.

Section 231. KRS 205.550 is amended to read as follows:

(1) The council shall advise the Cabinet for Health ***and Family*** Services about health and medical care services.

(2) The council shall have the opportunity for participation in policy development and program administration and shall advise the Cabinet for Health ***and Family*** Services on such matters.

(3) The council shall give advice regarding how to further the participation of recipient members in the policy development and program administration of the Medical Assistance Program.

Section 232. KRS 205.558 is amended to read as follows:

(1) To prevent inappropriate placement and to contain costs related thereto, the secretary for health ***and family*** services shall implement a statewide prescreening and admissions review system, including the imposition of a resource means test, for all long-term-care facilities and beds, as defined under KRS Chapter 216, and any acute-care hospital-based skilled-nursing or intermediate-care beds participating under Title XIX of the Social Security Act, regardless of the payment status of the resident upon admission. Any person having resources sufficient to cover the cost of care for at least three hundred sixty-five (365) days following admission may be admitted to a long-term care bed or facility if such person so desires; provided, however, that if a person:

  (a) Is admitted to a long-term-care facility or acute-care hospital-based skilled-nursing or intermediate-care bed without participating in the prescreening and admissions review system; or

  (b) Participates in the prescreening and admissions review system and is not authorized for placement in a long-term-care facility or acute-care hospital-based skilled-nursing or intermediate-care bed;

such person is not eligible for medical assistance payment for skilled-nursing or intermediate-care for one (1) year after the date of the person's admission to a skilled-nursing or intermediate-care facility or acute-care hospital-based skilled-nursing or intermediate-care bed unless the person subsequently participates in the prescreening and admissions review system and is authorized for admission to an intermediate-care or skilled-nursing facility or acute-care hospital-based skilled-nursing or intermediate-care bed.

(2) To implement the provisions of this section the cabinet shall establish preadmission screening teams composed of a nurse, social worker, and physician.

(3) Before preauthorization of any person for admission to an intermediate-care facility or skilled-care facility or acute-care hospital-based skilled-nursing or intermediate-care bed, the cabinet shall first make the following determinations:

  (a) The health status and care needs of the person require immediate institutionalization in an intermediate-care facility or skilled-nursing facility or acute-care hospital-based skilled-nursing or intermediate-care bed;

  (b) The person and his family have been fully advised of alternatives to institutional care and possible sources of reimbursement for such care;

  (c) Alternatives to institutional care are not feasible; and

  (d) Other such determinations as specified by administrative regulations promulgated by the cabinet under KRS Chapter 13A.

(4) Admission of a person to an intermediate-care facility, or a skilled-nursing facility without first obtaining prior authorization from the Cabinet for Health ***and Family*** Services shall constitute a Class B violation.

(5) The secretary for the cabinet shall promulgate such administrative regulations, subject to KRS Chapter 13A, as necessary to implement this section.

Section 233. KRS 205.559 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation that is provided by a Medicaid-participating practitioner who is licensed in Kentucky and that is provided in the telehealth network established in KRS 11.550(3)(b).

(2) (a) The cabinet shall establish reimbursement rates for telehealth consultations. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.

(b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.

(3) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.

(4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.

(5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.

(6) (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:

1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;

2. The quality of care as a result of telehealth consultations rendered under this section; and

3. Any other issues deemed relevant by the cabinet.

(b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.

(7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section.

Section 234. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for Health ***and Family*** Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health ***and family*** services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include those amino acid modified preparations and low-protein modified food products for the treatment of the following inherited metabolic diseases, if the amino acid modified preparations or low-protein modified food products are prescribed for therapeutic treatment and are administered under the direction of a physician, and are limited to the following conditions:

    1. Phenylketonuria;
    2. Hyperphenylalaninemia;
    3. Tyrosinemia (types I, II, and III);
    4. Maple syrup urine disease;
    5. A-ketoacid dehydrogenase deficiency;
    6. Isovaleryl-CoA dehydrogenase deficiency;
    7. 3-methylcrotonyl-CoA carboxylase deficiency;
    8. 3-methylglutaconyl-CoA hydratase deficiency;
    9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
    10. B-ketothiolase deficiency;
    11. Homocystinuria;
    12. Glutaric aciduria (types I and II);
    13. Lysinuric protein intolerance;
    14. Non-ketotic hyperglycinemia;
    15. Propionic acidemia;
    16. Gyrate atrophy;
    17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
    18. Carbamoyl phosphate synthetase deficiency;
    19. Ornithine carbamoyl transferase deficiency;
    20. Citrullinemia;
    21. Arginosuccinic aciduria;
    22. Methylmalonic acidemia; and
    23. Argininemia;

(d) Physician, podiatric, and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;

(h) Services provided by health-care delivery networks as defined in KRS 216.900; and

(i) Services provided by midlevel health-care practitioners as defined in KRS 216.900.

(2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health ***and Family*** Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health ***and Family*** Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health ***and Family*** Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health ***and Family*** Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health ***and Family*** Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health ***and Family*** Services; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the Cabinet for Health ***and Family*** Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.

(11) The Cabinet for Health ***and Family*** Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.

Section 235. KRS 205.5606 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall establish the Kentucky Independence Plus Through Consumer-Directed Services Program that shall provide an option within each of the home and community-based services waivers. The option within each of the waiver programs shall be based on the principles of consumer choice and control and that shall be implemented upon federal approval, if required. The program shall allow enrolled persons to assist with the design of their programs and choose their providers of services and to direct the delivery of services to meet their needs.

(2) The cabinet shall establish interagency cooperative agreements with any state agency as needed to implement and administer the program.

(3) A person who is enrolled in a Medicaid home and community-based waiver program may choose to participate in the consumer-directed services program.

(4) A consumer shall be allocated a monthly budget allowance based on the results of his or her assessed functional needs, his or her person-centered plan, and the financial resources of the program. The budget allowance shall be disbursed directly from a cabinet-approved fiscal intermediary on behalf of the consumer. The cabinet shall develop purchasing guidelines to assist each consumer in using the budget allowance to purchase needed, cost-effective services.

(5) A consumer shall use the budget allowance to pay for nonresidential and nonmedical home and community-based services and supports that meet the consumer's needs and that constitute a cost-effective use of funds.

(6) A consumer shall be allowed to choose providers of services, including but not limited to when and how the services are provided. A provider may include a person otherwise known to the consumer, unless prohibited by federal law.

(7) If the consumer is the employer of record, the consumer's roles and responsibilities shall include but not be limited to the following:

    (a) Developing a job description;

    (b) Selecting providers and submitting information for any required background screening;

    (c) With assistance of the cabinet or its agents, developing a person-centered plan and communicating needs, preferences, and expectations about services being purchased;

    (d) Providing the fiscal intermediary with all information necessary for provider payments and tax requirements; and

    (e) Ending the employment of an unsatisfactory provider.

(8) If a consumer is not the employer of record, the consumer's roles and responsibilities shall include but not be limited to the following:

    (a) With assistance of the cabinet or its agents, developing a person-centered plan and communicating needs, preferences, and expectations about services being purchased;

    (b) Ending the services of an unsatisfactory provider; and

    (c) Providing the fiscal agent with all information necessary for provider payments and tax requirements.

(9) The roles and responsibilities of the cabinet or its agents shall include but not be limited to the following:

    (a) Assessing each consumer's functional needs, helping with the development of a person-centered plan, and providing ongoing assistance with the plan;

    (b) Offering the services of service advisors who shall provide training, technical assistance, and support to the consumer as prescribed through an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A;

    (c) Approving fiscal intermediaries; and

    (d) Establishing the minimum qualifications for all providers and being the final arbiter of the fitness of any individual to be a provider.

(10) The fiscal intermediary's roles and responsibilities shall include but not be limited to the following:

    (a) Providing recordkeeping services, including but not limited to maintaining financial records as required through administrative regulation promulgated in accordance with KRS Chapter 13A by the Cabinet for Health ***and Family*** Services; and

    (b) Retaining the consumer-directed funds, processing employment and tax information, if any, reviewing records to ensure correctness, writing paychecks to providers, and delivering paychecks.

(11) (a) Each person who provides services or supports under this section shall comply on an annual basis with any required background screening. A person shall be excluded from employment upon failure to meet the background screening requirements unless otherwise exempted through an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.

    (b) The service advisor shall, as appropriate, complete background screening as required by this section.

(12) For purposes of this section, a person who has undergone screening, is qualified for employment under this section, and has not been unemployed for more than one hundred eighty (180) days following the screening shall not be required to be rescreened. Such person must attest under penalty of perjury to not having been convicted of a disqualifying offense since completing the screening.

(13) To implement this section:

(a) The cabinet shall be authorized to promulgate necessary administrative regulations in accordance with KRS Chapter 13A; and

(b) The cabinet shall take all necessary action to ensure state compliance with federal regulations. The cabinet shall apply for any necessary federal waivers or federal waiver amendments to implement the program within three (3) months following July 13, 2004, pending availability of funding.

(14) The cabinet, with consumer input, shall review and assess the implementation of the consumer-directed program. By January 15 of each year, the cabinet shall submit a written report to the General Assembly that includes the review of the program and recommendations for improvements to the program.

Section 236. KRS 205.5632 is amended to read as follows:

(1) Upon initial coverage by the Kentucky Medicaid program, a new drug shall be exempt from prior authorization unless:

(a) There has been a review of the drug and recommendation regarding prior authorization by the Pharmacy and Therapeutics Advisory Committee as provided under KRS 205.564 and a final determination regarding prior authorization by the secretary of the Cabinet for Health ***and Family*** Services; or

(b) The drug is in a specific class of drugs for which the Pharmacy and Therapeutics Advisory Committee has recommended, and the secretary of health ***and family*** services has determined, that all new drugs shall require prior authorization upon initial availability, in which case the drug shall require prior authorization and shall be scheduled for review by the Pharmacy and Therapeutics Advisory Committee within seventy-five (75) days.

(2) The Cabinet for Health ***and Family*** Services shall promulgate an administrative regulation in accordance with KRS Chapter 13A that describes the process by which drugs under this section shall be determined to require prior authorization.

Section 237. KRS 205.5634 is amended to read as follows:

(1) The Drug Management Review Advisory Board shall coordinate the use of utilization data to identify appropriate use of pharmaceuticals and determine any need for educational interventions. Prospective drug utilization review and retrospective drug utilization review measures shall be utilized to monitor the success of the interventions. Interventions shall be evaluated for a period of not less than six (6) months.

(2) Implementation and performance of the duties of this section and KRS 205.5631, 205.5632, and 205.5636 and any drug review shall be performed by the staff of the Cabinet for Health ***and Family*** Services, or its contractors.

Section 238. KRS 205.5636 is amended to read as follows:

(1) A Drug Management Review Advisory Board is hereby established and attached to the Cabinet for Health ***and Family*** Services for administrative purposes. The board shall consist of sixteen (16) members to be appointed by the secretary of the Cabinet for Health ***and Family*** Services and shall be constituted as follows:

(a) Five (5) members shall be physicians, one (1) each from the fields of family medicine, internal medicine, pediatrics, and geriatrics. The fifth physician appointed shall be from any other recognized field of medicine. Two (2) of the above indicated physicians shall be representatives of the two (2) current medical schools in the Commonwealth, the University of Kentucky and the University of Louisville Schools of Medicine;

(b) Five (5) members shall be pharmacists, at least one (1) of whom shall be designated as the representative of the University of Kentucky College of Pharmacy;

(c) Two (2) members shall be advanced registered nurse practitioners;

(d) One (1) member shall be an optometrist and one (1) member shall be a physician's assistant;

(e) One (1) member shall be a representative of the Cabinet for Health ***and Family*** Services designated to serve on an ex officio basis; and

(f) One (1) nonvoting member shall be a member of the pharmaceutical manufacturing industry.

(2) (a) The physician members of the board shall be appointed from a list of three (3) qualified physicians for each vacancy submitted by the Kentucky Medical Association.

(b) The pharmacist members of the board shall be appointed from a list of three (3) qualified pharmacists for each vacancy submitted by the Kentucky Pharmacy Association.

(c) The advanced registered nurse practitioner members of the board shall be appointed from a list of three (3) for each vacancy, submitted by the Kentucky Nurses Association.

(d) The optometrist shall be appointed from a list of three (3) qualified optometrists submitted by the Kentucky Optometric Association.

(e) The physician's assistant shall be appointed from a list of three (3) qualified physicians assistants submitted by the Kentucky Board of Medical Licensure.

(3) The secretary may appoint one (1) nonvoting industry representative to be selected from a list of three (3) members nominated from the Pharmaceutical Research and Manufacturers of America. The secretary may request additional names

for appointments and current members may be considered for reappointment. All members of the board shall be licensed and actively practicing in their respective professions in the Commonwealth and shall have knowledge or expertise in at least one (1) of the following areas:

(a) The clinically appropriate prescribing, utilization, and evaluation of pharmaceuticals;

(b) The clinically appropriate dispensing and monitoring of pharmaceuticals;

(c) Drug utilization review, pharmacoeconomic and pharmacoepidemiological evaluation and intervention, pharmacotherapeutic intervention methods in disease management using treatment algorithms, critical paths, and other measures that have been well defined and validated; and

(d) Medical quality assurance.

(4) Three (3) of the initially appointed physician members, three (3) of the initially appointed pharmacist members, and one (1) of the initially appointed advanced registered nurse practitioners shall be appointed for a term of one (1) year. The remaining initial members shall be appointed for a term of two (2) years. Subsequent appointments shall be for a term of two (2) years. Members shall serve for no more than three (3) consecutive terms. The board shall designate a chair and vice chair. A member shall serve no more than two (2) consecutive terms as chair.

(5) The first meeting of the board shall take place within thirty (30) days of the appointment of all the members of the board.

(6) The board shall meet at least quarterly, or upon the call of the chair or the commissioner. A majority of the voting members of the board shall constitute a quorum. All meetings shall be conducted in accordance with the provisions of the Open Meetings Act, KRS 61.805 to 61.850, and all balloting shall take place by roll call vote.

(7) Actions of the board shall require a majority vote of the members present or participating through distance communication technology. No member may vote on a matter where a conflict of interest may exist. The chair may vote on any matter before the board unless a conflict of interest exists.

Section 239. KRS 205.5638 is amended to read as follows:

(1) The Drug Management Review Advisory Board shall have at least the following duties and responsibilities:

(a) Review and make recommendations to the commissioner or designee on predetermined prospective drug use review standards submitted to the board by the Department for Medicaid Services or its contractor;

(b) Evaluate the use of the predetermined prospective drug use review standards and make recommendations to the commissioner or the commissioner's designee concerning modification or elimination of existing standards and the need for additional standards;

(c) Make recommendations to the commissioner or the commissioner's designee concerning guidelines governing written predetermined standards that pharmacies must use in conducting prospective drug use review if they do not use approved software;

(d) Oversee the retrospective drug use review contract and incorporate the results into predetermined retrospective drug use review standards;

(e) Review and make recommendations to the commissioner or the commissioner's designee on predetermined retrospective drug use standards submitted to the board by the Department for Medicaid Services;

(f) Make recommendations to the commissioner or the commissioner's designee concerning the modification or elimination of existing predetermined retrospective drug use review standards and the need for additional standards;

(g) Identify and develop educational topics on common drug therapy problems if needed to improve prescribing or dispensing practices of practitioners;

(h) Make recommendations to the commissioner or the commissioner's designee concerning which mix of interventions would most effectively lead to an improvement in the quality of drug therapy;

(i) Conduct periodic reevaluations to determine the effectiveness of educational effort and, if necessary, modify the interventions;

(j) Recommend standards for the identification of suspected fraud and abuse;

(k) Prepare and submit to the commissioner an annual drug use review report that contains the following information:

1. A description of the nature and scope of the retrospective drug utilization program including the identity of the contractor, the frequency of screening of claims data and the criteria and standards used, along with new or revised copies of the clinical criteria, and in subsequent years, a list of revised criteria and deleted criteria;

2. A summary of nonpatient and provider specific educational activities including information on the use of each type of patient and provider specific intervention that indicates the guidelines for use and frequency of use by type of intervention and the effectiveness of each type of intervention on changes in prescribing or dispensing practices;

3. An evaluation of the adequacy of prospective drug use review database software; and

4. Details on policy guidelines adopted by the board pertaining to written criteria that pharmacies may use if they do not use a computer prospective drug utilization review database; and

(l) In advising the department, the board may consider the effectiveness of all interventions used to manage a particular disease over time, the stage and intensity of the disease, and the economic, clinical, and patient-prospective outcomes, including quality of life.

(2) The board shall function in accordance with the Kentucky Open Meetings Law and the Kentucky Open Records Act. The board may designate subcommittees to address specific issues and to report findings to the board. In conducting its business, the board shall utilize distance communication technologies whenever possible.

(3) Clerical and administrative support shall be provided the board through the Cabinet for Health ***and Family*** Services or by contract.

Section 240. KRS 205.5639 is amended to read as follows:

(1) Any recommendation by the board is advisory to the commissioner.

(2) Any interested party may request an opportunity to make a presentation or argument to the board on any item under consideration by the board. The Cabinet for Health ***and Family*** Services shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish requirements for presentations before the board.

(3) Any interested party who is aggrieved by a recommendation of the board to the commissioner or his designee may submit written exceptions consisting of only new information that was not available to be presented at the time of the board's consideration of the matter. These written exceptions shall be submitted within ten (10) days of the recommendation. After the time for filing exceptions has expired, the commissioner or the commissioner's designee shall consider all exceptions filed in a timely manner prior to acting upon the recommendation of the board. If the deadline for filing written exceptions falls on a Saturday, Sunday, or a state holiday, the exceptions may be filed the following day.

(4) In making a final decision on any recommendation of the board, the commissioner may seek additional and clarifying information from any source. Any additional information submitted to the commissioner shall be made a part of the administrative record supporting the final decision.

(5) An appeal from a decision of the commissioner may be made in accordance with KRS Chapter 13B by a manufacturer of the product. Unless held in abeyance or otherwise addressed by the hearing officer, the decision of the commissioner stands until final disposition of the issue.

Section 241. KRS 205.564 is amended to read as follows:

(1) The Pharmacy and Therapeutics Advisory Committee is established and attached to the Department for Medicaid Services for administrative purposes.

(2) The committee shall have fourteen (14) members, as follows:

(a) Twelve (12) voting members who shall be physicians currently participating in the Medicaid program who may legally prescribe a broad range of scheduled and nonscheduled drugs, as categorized by the U.S. Drug Enforcement Administration, or pharmacists who dispense prescriptions to Medicaid recipients, as follows:

1. Three (3) licensed, practicing family practice physicians;
2. Two (2) licensed, practicing physicians who are pediatricians;
3. One (1) licensed, practicing physician who is an obstetrician/gynecologist or gynecologist;
4. One (1) licensed, practicing internal medicine physician who is a primary care provider;
5. One (1) licensed, practicing physician from any medical specialty;
6. One (1) licensed, practicing physician who is a psychiatrist; and
7. Three (3) licensed, practicing pharmacists; and

(b) Two (2) nonvoting members, as follows:

1. The medical director of the department; and
2. A representative of the department's pharmacy program, as designated by the commissioner.

(3) One (1) voting committee member shall be appointed, and may be reappointed, by the Governor from a list of three (3) nominees received from the President of the Senate, and one (1) voting committee member shall be appointed, and may be reappointed, by the Governor from a list of three (3) nominees received from the Speaker of the House of Representatives. The remaining ten (10) voting committee members shall be appointed, and may be reappointed, by the Governor from a list of nominees submitted by the department. Terms of the voting committee members shall be three (3) years with no members serving more than two (2) consecutive terms.

(4) The Pharmacy and Therapeutics Advisory Committee shall:

(a) Act in an advisory capacity to the Governor, the secretary of the Cabinet for Health ***and Family*** Services, and the Medicaid commissioner on the development and administration of an outpatient drug formulary;

(b) Perform drug reviews and make recommendations to the secretary regarding specific drugs or drug classes to be placed on prior authorization or otherwise restricted, as determined through a process established by the cabinet;

(c) Provide for an appeals process to be utilized by a person or entity that disagrees with recommendations of the committee;

(d) Establish bylaws or rules for the conduct of committee meetings; and

(e) Function in accordance with the Kentucky Open Meetings Law and the Kentucky Open Records Law.

(5) Voting members of the committee shall elect a chair and vice chair by majority vote. A quorum shall consist of seven (7) voting members of the committee.

(6) The committee shall meet every other month for a total of at least six (6) times per year or upon the call of the chair, the secretary of the Cabinet for Health ***and Family*** Services, or the Governor. The Department for Medicaid Services shall post the agenda on its Web site no later than fourteen (14) days prior to the date of a regularly scheduled meeting and no later than seventy-two (72) hours prior to the date of a specially called meeting. Options, including any recommendations, by the department for drug review or drug review placement shall be posted on the department's Web site no later than seven (7) days prior to the date of the next regularly scheduled meeting and as soon as practicable prior to the date of the next specially called meeting.

(7) Members of the committee shall receive no compensation for service, but shall receive necessary and actual travel expenses associated with attending meetings.

(8) Any recommendation of the committee to the secretary of the Cabinet for Health ***and Family*** Services shall be posted to the Web site of the Department for Medicaid Services within seven (7) days of the date of the meeting at which the recommendation was made.

(9) A recommendation of the committee shall be submitted to the secretary for a final determination. If the secretary does not accept the recommendation of the committee, the secretary shall present the basis for the final determination at the next scheduled meeting of the committee. The secretary shall act on the committee's recommendation within thirty (30) days of the date that the recommendation was posted on the Web site.

(10) Any interested party may request and may be permitted to make a presentation to the board on any item under consideration by the board. The Cabinet for Health ***and Family*** Services shall, by administrative regulation promulgated under KRS Chapter 13A, establish requirements for any presentation made to the board.

(11) The secretary's final determination shall be posted on the Web site of the Department for Medicaid Services.

(12) Any appeal from a decision of the secretary shall be made in accordance with KRS Chapter 13B, except that the time for filing an appeal shall be within thirty (30) days of the date of the posting of the secretary's final determination on the Web site of the Department for Medicaid Services.

(13) The Cabinet for Health ***and Family*** Services shall promulgate an administrative regulation in accordance with KRS Chapter 13A to implement the provisions of this section.

Section 242. KRS 205.565 is amended to read as follows:

(1) For the purposes of this section, a "pediatric teaching hospital" is defined as an acute-care hospital as licensed under KRS Chapter 216B and which has designated and operates no less than one hundred fifty (150) beds for pediatric services and which is either operated by one (1) of the Commonwealth's schools of medicine and which has a pediatric teaching program or which has an affiliation agreement for pediatric services, teaching, and research with a school of medicine for the Commonwealth.

(2) For purposes of inpatient hospital reimbursement under the Kentucky Medical Assistance Program, the Cabinet for Health ***and Family*** Services shall recognize the unique costs of any pediatric teaching hospital.

Section 243. KRS 205.594 is amended to read as follows:

As used in KRS 205.593 to 205.598, the term "insurer" includes a group health plan, as defined in Section 607(1) of the Employment Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a health service benefit plan.

(1) Health insurers shall be prohibited from denying enrollment of a child under the health coverage of the child's parent on the grounds that:

(a) The child was born out of wedlock;

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the health insurer's area.

(2) If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall be required:

(a) To permit the parent to enroll under the family coverage any child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(b) If a parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application by the child's other parent, custodial parent, or by the Cabinet for ***Health and Family***

Services~~[Families and Children]~~; and

(c) Not to disenroll, or eliminate coverage of, a child unless the insurer is provided satisfactory written evidence that:

1. A court or administrative order requiring coverage of the child is no longer in effect; or

2. The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of the disenrollment.

Section 244. KRS 205.595 is amended to read as follows:

If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the Commonwealth, the employer is required:

(1) To permit the parent to enroll under family coverage any child who is otherwise eligible for the coverage, without regard to any enrollment season restrictions;

(2) In the case where the noncustodial parent provides health care coverage and changes employment, to accept a notice of transfer of the provision to enroll from the Cabinet for ***Health and Family Services***~~[Families and Children]~~, the custodial parent or the noncustodial parent, and to enroll the child in the noncustodial parent's health care coverage, unless the noncustodial parent contests the notice pursuant to KRS Chapter 13B;

(3) If a parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application by the child's other parent, custodial parent, or by the Cabinet for ***Health and Family Services***~~[Families and Children]~~;

(4) Not to disenroll or eliminate coverage of a child unless:

(a) The employer is provided satisfactory written evidence that a court or administrative order requiring coverage of the child is no longer in effect, or that the child is or will be enrolled in comparable health coverage which will take effect no later than the effective date of the disenrollment; or

(b) The employer has eliminated family health coverage for all of its employees; and

(5) To withhold from the employee's compensation the employee's share, if any, of premiums for health coverage, except that the amount withheld may not exceed the maximum amount permitted to be withheld under Section 303(b) of the Federal Consumer Credit Protection Act, and to pay the share of premiums to the insurer.

Section 245. KRS 205.598 is amended to read as follows:

(1) The Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall withhold the wages, salary, or other employment income of, and require withholding amounts from state tax refunds to, any person who:

(a) Is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance;

(b) Has received payment from a third party for the costs of the services for the child; but

(c) Has not used these payments to reimburse either the other parent or guardian of the child, or the provider of the services.

(2) Any claims for current or past-due child support income shall take priority over the claims for the costs of reimbursing the Medical Assistance Program for child medical support.

Section 246. KRS 205.623 is amended to read as follows:

(1) All insurance companies licensed under KRS Chapter 304 shall provide upon request to the Cabinet for Health ***and Family*** Services, by electronic means and in the format prescribed by the cabinet, coverage information and claims paid data on Medicaid-eligible policyholders and dependents. The data obtained on Medicaid eligibles shall be used by the cabinet to determine the availability of other medical benefits in order to ascertain Medicaid is the payor of last resort.

(2) All information obtained by the cabinet pursuant to this section shall be confidential and shall not be open for public inspection.

Section 247. KRS 205.624 is amended to read as follows:

(1) An applicant or recipient shall be deemed to have made to the cabinet an assignment of his rights to third-party payments to the extent of medical assistance paid on behalf of the recipient under Title XIX of the Social Security Act. The applicant or recipient shall be informed in writing by the cabinet of such assignment.

(2) The cabinet shall have the right of recovery which a recipient may have for the cost of hospitalization, pharmaceutical services, physician services, nursing services, and other medical services not to exceed the amount of funds expended by the cabinet for such care and treatment of the recipient under the provisions of Title XIX of the Social Security Act.

(a) If a payment for medical assistance is made, the cabinet, to enforce its right, may:

1. Intervene or join in an action or proceeding brought by the injured, diseased, or disabled person, the person's guardian, personal representative, estate, dependents, or survivors against a third party who may be liable for the injury, disease, or disability, or against contractors, public or private, who may be liable to pay or provide medical care and services rendered to an injured, diseased, or disabled recipient, in state or federal court; or

2. Institute and prosecute legal proceedings against a third party who may be liable for the injury, disease, or disability, or against contractors, public or private, who may be liable to pay or provide medical care and services rendered to an injured, diseased, or disabled recipient, in state or federal court, either alone or in conjunction with the injured, diseased, or disabled person, the person's guardian, personal representative, estate, dependents, or survivors; or

3. Institute the proceedings in its own name or in the name of the injured, diseased, or disabled person, the person's guardian, personal representative, estate, dependents, or survivors.

(b) The injured, diseased, or disabled person may proceed in his own name, collecting costs without the necessity of joining the cabinet or the Commonwealth as a named party, provided the injured, diseased, or disabled person shall notify the cabinet of the action or proceeding entered into upon commencement of the action or proceeding. The injured, diseased, or disabled person must notify the cabinet of any settlement or judgment of his or her claim.

(c) In the case of an applicant for or recipient of medical assistance whose eligibility is based on deprivation of parental care or support due to absence of a parent from the home, the cabinet may:

1. Initiate a civil action or other legal proceedings to secure repayment of medical assistance expenditures for which the absent parent is liable; and

2. Provide for the payment of reasonable administrative costs incurred by such other state or county agency requested by the cabinet to assist in the enforcement of securing repayment from the absent parent.

(3) Each insurer issuing policies or contracts under Subtitle 17, 18, 32, or 38 of KRS Chapter 304 shall cooperate fully with the Cabinet for Health ***and Family*** Services or an authorized designee of the cabinet in order for the cabinet to comply with the provisions of subsection (1) of this section.

Section 248. KRS 205.6310 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall establish a system within the Medical Assistance Program to reduce unnecessary hospital emergency room utilization and costs by redefining and controlling hospital emergency utilization. The cabinet shall establish by promulgation of administrative regulations, pursuant to KRS Chapter 13A, the following:

(1) Criteria and procedures, at least annually updated, that differentiate children and adults, and which conform to the Federal Emergency Medical Treatment and Active Labor Act (42 U.S.C. sec. 1395dd), as amended, and any other applicable federal law or regulation for determining if a medical emergency exists;

(2) Reimbursement rates that provide for nominal reimbursement of emergency room care for care that does not meet the criteria established for a medical emergency;

(3) Reimbursement, at rates determined by the cabinet, for ancillary services which, based upon the symptoms of the patient, are medically appropriate to determine if a medical emergency exists;

(4) Except for emergency room services rendered to children under the age of six (6), prohibition of reimbursement at hospital emergency room rates for diagnosis and treatment for a condition that does not meet the criteria established for a medical emergency; and

(5) The provisions of this section shall apply to any managed care program for Medicaid recipients.

The cabinet or its designated peer review organization shall review all claims for payment of nonemergency hospital care and deny payment for any ancillary services determined as not medically appropriate.

Section 249. KRS 205.6314 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall review the Medical Assistance Program reimbursement rates for emergency transportation providers to determine if existing rates are fair and reasonable. Notwithstanding this review, the cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, do the following:

(1) Prescribe reimbursement rates for emergency transportation providers to ensure that emergency rates are paid only for transporting medical assistance recipients to the emergency room of a hospital in emergency situations;

(2) Establish, in nonemergency cases, lower medical assistance reimbursement rates for emergency transportation providers for the transportation of stretcher patients from nursing homes to physician offices or hospitals; and

(3) Establish a verification system that requires medical providers to confirm that medical assistance recipients have appointments for medical services and that medical services were medically necessary and were obtained prior to payment by the cabinet to the emergency transportation provider.

Section 250. KRS 205.6316 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall review the procedures for medical assistance reimbursement of pharmacists to reduce fraud and abuse. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(1) Point-of-sale computer technology, with integration of data at the physician's office and the pharmacy, that will permit prospective drug utilization review;

(2) Usage parameters by drug class to enable medical necessity and appropriateness reviews to be conducted prior to payment;

(3) A dialog among the Department for Medicaid Services, the Kentucky Medical Board of Licensure, and the Kentucky Board of Pharmacy, to develop recommendations for legislation for the 1996 Regular Session of the General Assembly that will strengthen the generic substitution laws for prescription medication; and

(4) A dispensing fee for each prescription.

Section 251. KRS 205.6318 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall review the available technology associated with the medical assistance system to determine which technology is best suited to enhance program service operation, monitoring ability, and fraud and abuse detection. This shall include the ability to provide on-line access to data files to allow cross-analysis of provider and recipient utilization patterns. The cabinet shall by promulgation of administrative regulations, pursuant to KRS Chapter 13A, establish an integrated system to enhance program integrity, using a combination of staff, computer technology, and contractual services to identify potential fraud, abuse, and misutilization of services. This system shall:

(1) Utilize statisticians, program specialists, accountants, nurses, and other medical specialists to review the Medical Assistance Program to identify patterns of provider and recipient behavior that contributes to unnecessary or abusive use of program services;

(2) Utilize computer capability through contractual services or the purchase of computer software to detect the unbundling of claims and other techniques used by providers to enhance reimbursement;

(3) Impose utilization controls on the expenditures in respiratory, physical, speech, and occupational therapy and durable medical equipment provided to nursing-home residents, through the use of established medical criteria or preauthorization of ancillary therapies;

(4) Establish state audit and edit requirements that exceed the federal audit and edit requirements;

(5) Obtain access to necessary data from the fiscal agent of each medical provider;

(6) Review the efficiency and effectiveness of the fraud and abuse detection and investigation process to determine whether changes shall be made;

(7) Direct that fraud and abuse detection and investigation components shall be active in initiating investigations. The fraud and abuse detection, investigation, and prosecution functions shall be integrated, with access to information in files maintained by the Department for Community Based Services and the Department for Medicaid Services;

(8) Review penalties for deterrent value for medical providers that are found to have abused Medicaid regulations and statutes; and

(9) Provide for a proactive effort to reduce costs for institutionalized program participants. Program officials shall seek to implement innovative or experimental demonstration programs that aim to control costs.

Section 252. KRS 205.6320 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall seek to strengthen the managed care component of the KenPAC Program. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

  (a) Inclusion of noninstitutionalized blind, aged, and disabled recipients in an effort to reduce inappropriate usage as permitted by federal Medicaid regulations;

  (b) Financial incentives for KenPAC physicians who effectively manage the care of their patients. These incentives may include an increase in the case management fee for demonstrated effective case management, or through other arrangements that encourage the effective and efficient management of patients. Clear and concise administrative regulations promulgated under KRS Chapter 13A shall be established by the cabinet to determine physician qualification for the incentives;

  (c) A pilot project to establish an oversight and education program in the KenPAC system to assist with patient education regarding the appropriate and effective use of the system and to assist providers with more efficient management of patients;

  (d) Criteria to avoid duplication of the provision of early and periodic screening, diagnosis, and treatment-type services to children in the KenPAC Program;

  (e) A review of the feasibility of a demonstration project to allow health maintenance organizations to bid on the provision of services to KenPAC participants;

  (f) Extension of KenPAC to all counties within the state. The cabinet shall determine the feasibility of working with state-supported medical schools to obtain physicians in the counties where KenPAC does not operate; and

  (g) More stringent reporting and verification requirements in contracts with KenPAC physicians regarding verification of services provided to KenPAC patients.

(2) The secretary shall promulgate by administrative regulation standards for access and quality which any health maintenance organizations serving Medicaid recipients shall meet. The secretary shall not provide Medicaid services through a health maintenance organization which does not demonstrate the capacity to meet the standards. The standards shall address at least the following subjects:

(a) Access to care including patient to physician ratios, availability of appropriate specialists, distance to care, travel and waiting times, and physical and language barriers;

(b) Internal and external methods for monitoring quality of care;

(c) Data collection and reporting, including provision of data on utilization, outcomes, enrollee satisfaction, and the number, type, and resolution of grievances and complaints, with subpopulation data for at-risk populations;

(d) Due-process procedures including written notice of appeal rights, timelines for resolution of complaints, and expedited appeals processes;

(e) Consumer representation and patient advocacy; and

(f) Marketing practices including prohibited practices and standards for advertisements and printed marketing materials.

Section 253. KRS 205.6322 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall seek to prohibit the sheltering of assets in medical assistance long-term-care cases by promulgation of administrative regulations, pursuant to KRS Chapter 13A, that establish the following:

(1) Consideration of assets placed in Medicaid-qualifying trusts as a prohibited transfer of resources, to the extent prohibited by federal law;

(2) Revision of Medicaid policy to provide that assets funding the purchase of an annuity shall be treated as a transfer of resources unless the annuity is actuarially sound as defined in administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A;

(3) Revision of Medicaid policy to treat income-producing property as an available resource to the extent allowed by federal law;

(4) Review of Medicaid eligibility procedures and operation to improve eligibility verification and detection of fraud and abuse; and

(5) Review of the feasibility of instituting a photographic identification card, possibly in conjunction with other entitlement programs, to reduce fraud and abuse through misuse of Medicaid identification cards.

Section 254. KRS 205.6324 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall by promulgation of administrative regulations enhance third-party resource collection capacity in Medicaid cases through utilization of in-house personnel and selective contracting for high-volume or high-technological services.

Section 255. KRS 205.6326 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall review all medical assistance reimbursement systems for appropriateness and cost-effectiveness. The review shall include:

(1) Review of cost-based reimbursement policies for hospitals and nursing homes to determine the effectiveness and appropriateness of alternate systems. Consideration shall be given to the use of modified diagnostic-related groups and resource utilization groups systems, using capitated payment methods; and

(2) Review of reimbursement rates for physicians to determine whether savings or cost containment would be better achieved through using a relative-based resource value scale system, a capitated payment method, or other alternative methods of reimbursement; and

(3) For all Medicaid-covered long-term-care services, implementation of a standardized patient assessment tool and consistent quality-of-care mandates.

Section 256. KRS 205.6334 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall request any waivers of federal law that are necessary to implement the provisions of KRS 205.6310 to 205.6332.

Section 257. KRS 205.637 is amended to read as follows:

(1) (a) A county-owned or operated hospital shall receive an enhanced Medicaid payment in an amount, calculated from the most recent cost report filed by that hospital with the department as of June 30 of each year, equal to the difference between the amount of total payments made to the hospital by the department or a managed care entity for covered services provided to Medicaid beneficiaries, including services attributable to recipients in Medicaid managed care programs, during the state fiscal year and the hospital's cost for the services determined by the department under Medicare payment principles. Reimbursement under this section shall be made in a single payment. From July 1 through August 1 of each year, the Department for Medicaid Services shall calculate the payment due to be made to each county-owned or operated hospital and shall make the payment to each hospital no later than August 15 of each state fiscal year. The department shall make an enhanced payment to each county-owned or operated hospital in state fiscal year 1998 using cost reports filed with the department on or before June 30, 1998, for the hospitals' latest fiscal year.

(b) A payment described in this section is not due to a county-owned or operated hospital unless an intergovernmental transfer is made. A county-owned or operated hospital may make an intergovernmental transfer, or an intergovernmental transfer may be made on behalf of the hospital by a county, budget unit of a county governmental agency, or lending institution if it is not prohibited by state or federal law.

(c) An intergovernmental transfer shall be made to the enhanced Medicaid payment fund by August 2 of each state fiscal year in an amount equal to eighty percent (80%) of the amount determined under paragraph (a) of this subsection and shall be matched with federal funds.

(d) An enhanced Medicaid payment shall be made to each county-owned or operated hospital participating in the intergovernmental transfer program in an amount equal to one hundred percent (100%) of the hospital's Medicaid shortfall as determined under paragraph (a) of this subsection.

(e) The department shall determine the Medicaid shortfall for all other hospitals that are not county-owned or operated or are not state-university-owned or operated hospitals, which shall be equal to the difference between total payments made by the department or a managed care entity for covered services provided to Medicaid beneficiaries, including those enrolled in managed care, during the state fiscal year and the hospital's costs for the services as determined by the department under Medicare payment principles. Funds remaining from the enhanced Medicaid program shall be distributed to each hospital which is not county-owned or operated or is not state-university-owned or operated on a pro rata basis. If funds remain in the enhanced Medicaid payment fund after making enhanced Medicaid payments required by this subsection, the remaining funds shall be available for use by the department for funding the regular Medicaid program.

(2) The enhanced Medicaid payment authorized under subsection (1) of this section shall not be implemented as part of the disproportionate share hospital program or if federal financial participation is not available.

(3) The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations to implement the provisions of this section.

Section 258. KRS 205.640 is amended to read as follows:

(1) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(2) The "Medical Assistance Revolving Trust Fund" (MART) shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury and transferred on a quarterly basis to the Department for Medicaid Services for use as specified in this section. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(3) (a) Beginning in state fiscal year 2000-2001 and continuing annually thereafter, provider tax revenues and state and federal matching funds shall be used to fund the disproportionate share program established by the commissioner of Medicaid services. Disproportionate share funds shall be divided into three (3) pools for distribution as follows:

1. Forty-three and ninety-two hundredths percent (43.92%) of the total disproportionate share funds shall be allocated to acute care hospitals;
2. Thirty-seven percent (37%) of the total disproportionate share funds shall be allocated to university hospitals; and
3. Nineteen and eight hundredths percent (19.08%) of the total disproportionate share funds shall be allocated to private psychiatric hospitals and state mental hospitals, with the allocation to each respective group of hospitals established by the biennial budget.

If, in any year, one (1) or both university hospitals fail to provide state matching funds necessary to secure federal financial participation for the funds allocated to university hospitals under this subsection, the portion of the funding allocation applicable to the hospital or hospitals that fail to provide state matching funds shall be made available to acute care hospitals.

(b) The MART fund shall be used to compensate acute care hospitals, private psychiatric hospitals, and university hospitals qualifying for the disproportionate share program for uncompensated service provided by the hospitals to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Health ***and Family*** Services in accordance with this section.

(c) An individual hospital shall receive distributions for indigent care provided by that hospital that meets the guidelines established in paragraph (a) of this subsection.

(d) Distributions to acute care and private psychiatric hospitals shall be made as follows:

1. The department shall calculate an indigent care factor for each hospital annually. The indigent care factor shall be determined by calculating the percentage of each hospital's annual indigent care costs toward the

sum of the total annual indigent care costs for all hospitals within each respective pool. For purposes of this paragraph, "indigent care costs" means the hospital's inpatient and outpatient care as reported to the department multiplied by the hospital's Medicaid rate, or at a rate determined by the department in administrative regulation that, when multiplied by the hospital's reported indigent care, is equivalent to the amount that would be payable by the department under the fee-for-service Medicaid program for the hospital's total reported indigent care.

2. Each hospital's annual distribution shall be calculated by multiplying the hospital's indigent care factor by the total fund allocated to all hospitals within the respective pool under paragraph (a) of this subsection.

a. Hospitals shall report uncompensated care provided to qualified individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital to the Cabinet for Health ***and Family*** Services on a quarterly basis. However, all data for care provided during the state fiscal year shall be submitted no later than August 15 of each year.

b. The department shall use indigent care data for services delivered from October 1, 1998, through September 30, 1999, as reported by hospitals to calculate each hospital's indigent care factor for state fiscal year 2000-2001. For state fiscal year 2001-2002 and each year thereafter, the department shall use data reported by the hospitals for indigent care services rendered for the twelve (12) month period ending June 30 of each year as reported by the hospital to the department by August 15 in calculating each hospital's indigent care factor. The hospital shall, upon request by the Cabinet for Health ***and Family*** Services, submit any supporting documentation to verify the indigent care data submitted for the calculation of an indigent care factor and annual payment.

c. By September 1 of each year, the department shall calculate a preliminary indigent care factor and preliminary annual payment amount for each hospital, and shall notify each hospital of their calculation. The notice shall contain a listing of each hospital's indigent care costs, their indigent care factor, and the estimated annual payment amount. Hospitals shall notify the department by September 15 of any adjustments in the department's preliminary calculations. The department shall make adjustments identified by hospitals and shall make a final determination of each hospital's indigent care factor and annual payment amount by October 1.

(e) For fiscal year 2000-2001 and continuing annually thereafter, the department shall issue to each hospital one (1) lump-sum payment on October 15, or later as soon as federal financial participation becomes available, for the disproportionate share funds available during the corresponding federal fiscal year.

(4) Notwithstanding any other provision to contrary, total annual disproportionate share payments made to state mental hospitals, university hospitals, acute care hospitals, and private psychiatric hospitals in each state fiscal year shall be equal to the maximum amount of disproportionate share payments established under the Federal Balanced Budget Act of 1997 and any amendments thereto. Disproportionate share payments shall be subject to the availability of adequate state matching funds and shall not exceed total uncompensated costs.

(5) Hospitals receiving reimbursement shall not bill patients for services submitted for reimbursement under this section and KRS 205.641. Services provided to individuals who are eligible for medical assistance or the Kentucky Children's Health Insurance Program do not qualify for reimbursement under this section and KRS 205.641. Hospitals shall make a reasonable determination that an individual does not qualify for these programs and shall request the individual to apply, if appropriate, for medical assistance or Kentucky Children's Health Insurance on forms supplied by and in accordance with procedures established by the Department for Medicaid Services. The hospital shall document any refusal to apply and shall inform the patient that the refusal may result in the patient being billed for any services performed. The hospital shall not be eligible for reimbursement if the patient was eligible for medical assistance or Kentucky Children's Health Insurance and did not apply. Hospitals receiving reimbursement under this section and KRS 205.641 shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.

(6) The secretary of the Cabinet for Health ***and Family*** Services shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(7) All hospitals receiving reimbursement under this section and KRS 205.641 shall display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay."

Section 259. KRS 205.645 is amended to read as follows:

Notwithstanding any provision of KRS 205.560, the Cabinet for Health ***and Family*** Services shall recognize the reasonable and appropriate varying overhead costs associated with different areas of specialty for the purposes of establishing the standard reimbursement rate for physician services, dental services, and services provided by other independent providers under the Kentucky Medical Assistance Program.

Section 260. KRS 205.6483 is amended to read as follows:

There is hereby created within the Cabinet for Health ***and Family*** Services the Kentucky Children's Health Insurance Program

(KCHIP) for the purposes of:

(1) Providing health care coverage and other coordinated services to children through the age of eighteen (18) years at or below two hundred percent (200%) of the federal poverty level and who are not otherwise eligible for health insurance coverage through either expansions of Medicaid services under Title XIX of the Federal Social Security Act and through the provision of a separate health insurance program under Title XXI of the Federal Social Security Act, or a combination of Medicaid program expansions and use of a separate health insurance program; and

(2) Providing Medicaid coverage for children between the ages of fourteen (14) and eighteen (18) years up to one hundred percent (100%) of the federal poverty level.

Section 261. KRS 205.6485 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall prepare a state child health plan meeting the requirements of Title XXI of the Federal Social Security Act, for submission to the Secretary of the United States Department of Health and Human Services within such time as will permit the state to receive the maximum amounts of federal matching funds available under Title XXI. The cabinet shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the following:

  (a) The eligibility criteria for children covered by the Kentucky Children's Health Insurance Program. However, no person eligible for services under Title XIX of the Social Security Act 42 U.S.C. 1396 to 1396v, as amended, shall be eligible for services under the Kentucky Children's Health Insurance Program except to the extent that Title XIX coverage is expanded by KRS 205.6481 to 205.6495 and KRS 304.17A-340;

  (b) The schedule of benefits to be covered by the Kentucky Children's Health Insurance Program, which shall include preventive services, vision services including glasses, and dental services including at least sealants, extractions, and fillings, and which shall be at least equivalent to one (1) of the following:

    1. The standard Blue Cross/Blue Shield preferred provider option under the Federal Employees Health Benefit Plan established by U.S.C. sec. 8903(1);

    2. A mid-range health benefit coverage plan that is offered and generally available to state employees; or

    3. Health insurance coverage offered by a health maintenance organization that has the largest insured commercial, non-Medicaid enrollment of covered lives in the state;

  (c) The premium contribution per family of health insurance coverage available under the Kentucky Children's Health Insurance Program with provisions for the payment of premium contributions by families of children eligible for coverage by the program based upon a sliding scale relating to family income. Premium contributions shall be based on a six (6) month period not to exceed:

    1. Ten dollars ($10), to be paid by a family with income between one hundred percent (100%) to one hundred thirty-three percent (133%) of the federal poverty level;

    2. Twenty dollars ($20), to be paid by a family with income between one hundred thirty-four percent (134%) to one hundred forty-nine percent (149%) of the federal poverty level; and

    3. One hundred twenty dollars ($120), to be paid by a family with income between one hundred fifty percent (150%) to two hundred percent (200%) of the federal poverty level, and which may be made on a partial payment plan of twenty dollars ($20) per month or sixty dollars ($60) per quarter;

  (d) The level of copayments for services provided under the Kentucky Children's Health Insurance Program that shall not exceed those allowed by federal law; and

  (e) The criteria for health services providers and insurers wishing to contract with the Commonwealth to provide the children's health insurance coverage. However, the cabinet shall provide, in any contracting process for the preventive health insurance program, the opportunity for a public health department to bid on preventive health services to eligible children within the public health department's service area. A public health department shall not be disqualified from bidding because the department does not currently offer all the services required by paragraph (b) of this subsection. The criteria shall be set forth in administrative regulations under KRS Chapter 13A and shall maximize competition among the providers and insurers. The Cabinet for Finance and Administration shall provide oversight over contracting policies and procedures to assure that the number of applicants for contracts is maximized.

(2) Within twelve (12) months of federal approval of the state's Title XXI child health plan, the Cabinet for Health ***and Family*** Services shall assure that a KCHIP program is available to all eligible children in all regions of the state. If necessary, in order to meet this assurance, the cabinet shall institute its own program.

(3) KCHIP recipients shall have direct access without a referral from any gatekeeper primary care provider to dentists for covered primary dental services and to optometrists and ophthalmologists for covered primary eye and vision services.

Section 262. KRS 205.6487 is amended to read as follows:

(1) A "Kentucky Children's Health Insurance Program Trust Fund" shall be established for the purpose of receiving all appropriated funds, premiums, or other revenue received by the Kentucky Children's Health Insurance Program to be used for the payment of costs and services associated with the administration of the program. Appropriations made to the

Kentucky Children's Health Insurance Program trust fund shall not lapse at the end of a fiscal year but shall be carried forward in the trust fund account and shall be available for allotment for its particular purpose in the next fiscal year.

(2) The Kentucky Children's Health Insurance trust fund may receive state appropriations, gifts, and grants, including federal funds. Any unallotted or unencumbered balances in the Kentucky Children's Health Insurance Program trust fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the Kentucky Children's Health Insurance Program trust fund account.

(3) The secretary of the Cabinet for Health ***and Family*** Services shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, provide for the administration of the trust fund.

(4) In administering the Kentucky Children's Health Insurance Program, the administrative costs under the program shall be limited to no more than ten percent (10%) of applicable program costs.

(5) Notwithstanding the provisions of KRS 205.6336, the trust fund shall administer any savings from the implementation of the cabinet's Kentucky Children's Health Insurance Program through managed care and shall use those savings to provide state matching funds for any enhanced federal funds available under Title XXI of the Federal Social Security Act.

Section 263. KRS 205.6489 is amended to read as follows:

(1) The Kentucky Children's Health Insurance Program shall be administered by the Cabinet for Health ***and Family*** Services in terms of conducting eligibility determination and providing oversight over enrollment and claims payment.

(2) The program shall include a system of outreach and referral for children who may be eligible for the Kentucky Children's Health Insurance Program. The program shall work with the Department for Medicaid Services, the Department for Community Based Services, schools, pediatricians, public health departments, and other entities interested in the health of children in developing the system of outreach and referral.

(3) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish a structure for quality assurance and utilization review under KRS 205.6481 to 205.6495 and KRS 304.17A-340.

(4) The Kentucky Children's Health Insurance Program shall collect, analyze, and publicly disseminate comprehensive data on the number of children enrolled in the program, services received through the program, and the effect on health outcomes of children served by the program including the special health needs of minority children. The information collected by the program shall be subject to KRS 216.2927(1). The program shall have access to all data collected by the cabinet under KRS 216.2920 to 216.2929 and shall coordinate program data collection efforts with the data collection efforts of the cabinet under KRS 216.2920 to 216.2929.

Section 264. KRS 205.6491 is amended to read as follows:

(1) Within thirty (30) days of April 2, 1998, the Governor shall appoint a seven (7) member advisory council to the Kentucky Children's Health Insurance Program to make recommendations on the implementation of KRS 205.6481 to 205.6495 and KRS 304.17A-340. The appointed members shall serve at the pleasure of the Governor and shall be representative of health care providers, families with children eligible for services under KRS 205.6481 to 205.6495 and KRS 304.17A-340, and child advocacy groups.

(2) Staff services for the advisory council shall be provided by the Cabinet for Health ***and Family*** Services.

Section 265. KRS 205.710 is amended to read as follows:

As used in KRS 205.712 to 205.800, unless the context clearly dictates otherwise:

(1) "Cabinet" shall mean the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(2) "Secretary" shall mean the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(3) "Court order" shall mean any judgment, decree, or order of the courts of this state or any other state. For the purposes of KRS 205.715 to 205.800, 403.215, 405.405 to 405.520, and 530.050, it shall also include an order of an authorized administrative body;

(4) "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18), or under the age of nineteen (19) if in high school, who is not otherwise emancipated, self-supporting, married, or a member of the Armed Forces of the United States and is a recipient of or applicant for services under Part D of Title IV of the Social Security Act;

(5) "Duty of support" shall mean any duty of support imposed or imposable by law or by court order, decree, or judgment, whether interlocutory or final, and includes the duty to pay spousal support that applies to spouses with a child even if child support is not part of the order or when spousal support is assigned to the cabinet and arrearages of support past due and unpaid in addition to medical support whenever health-care coverage is available at a reasonable cost;

(6) "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child;

(7) "Consumer reporting agency" means any person or organization which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;

(8) "Obligor" means a parent who has an obligation to provide support;

(9) "Employer" means any individual, sole proprietorship, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which hires and pays an individual for his services;

(10) "Income" means but is not limited to any of the following:

(a) Commissions, bonuses, workers' compensation awards attributable to lost wages, retirement and pensions, interest and disability, earnings, salaries, wages, and other income due or to be due in the future from a person's employer and successor employers;

(b) Any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, annuity, Social Security, proceeds derived from state lottery winnings, unemployment compensation, supplemental unemployment benefits, and workers' compensation; and

(c) Any amount of money which is due to the obligor under a support order as a debt of any other individual, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which is indebted to the obligor;

(11) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment, or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor, or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits, or any other form of monetary gain. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

(12) "Enforce" means to employ any judicial or administrative remedy under KRS 405.405 to 405.420 and KRS 405.991(2) or under any other Kentucky law;

(13) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter, and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from public assistance under Title IV-A of the Social Security Act, or other continuing public assistance;

(14) "Parent" means a biological or adoptive mother or father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute, or administrative determination; and

(15) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor, or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise; periodic payments from pension and retirement programs; and unemployment compensation and insurance policies.

Section 266. KRS 205.712 is amended to read as follows:

(1) The Division of Child Support is established in the Cabinet for ***Health and Family Services***[~~Families and Children~~].

(2) The duties of the Division of Child Support, or its designee, shall include:

(a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to 669;

(b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;

(c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;

(d) Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;

(e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment-of-paternity form;

(f) Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;

(g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;

(h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;

(i) Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under

KRS 403.212;

(j) Administratively establish child support orders which shall have the same force and effect of law;

(k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;

(l) Impose a penalty for failure to comply with an administrative subpoena;

(m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided;

(n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court where the individual or entity resides; and

(o) May promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas.

(3) Effective September 30, 1999, the cabinet shall establish a system to receive and process all child support payments. The system shall include existing computer systems to record the payments. The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the cabinet and each child support order established or modified in the state on or after October 1, 1998.

(4) The cabinet shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court-ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act. Establishment of the state unit may include the designation and continuation of existing local collection units to aid efficient and effective collection, disbursement, and recording of child support payments.

(5) After the establishment of the disbursement unit child support collection system, the cabinet or its designee shall serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act.

(6) Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is canceled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.

(7) Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of the individuals for whom services are sought.

(8) The cabinet shall determine the name of each obligor who owes an arrearage of at least five thousand dollars ($5,000). After notification to the obligor owing an arrearage amount of five thousand dollars ($5,000), the cabinet shall transmit to the United States secretary of health and human services the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The cabinet shall notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.

(9) The cabinet shall determine the name of an obligor owing an arrearage and shall indefinitely deny, suspend, or revoke a license or certification that has been issued if the person has a child support arrearage that equals or exceeds the amount that would be owed after six (6) months of nonpayment or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).

(10) The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.

(11) The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, the person complies with the subpoena or warrant relating to paternity or child support proceedings, or the appeal of the denial or suspension is upheld

and the license is reinstated.

(12) Except for cases administered by the cabinet under 42 U.S.C. secs. 651 et seq. which shall be afforded the appeal process set forth by KRS 405.450(3), an individual who has a license or certification denied, revoked, or suspended shall have the right to appeal to the licensing or certifying board.

(13) A dispute hearing shall be conducted by the cabinet in accordance with KRS 405.450. The only basis for a dispute hearing shall be a mistake in fact.

(14) The cabinet shall in its discretion enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system. The financial institution shall be required to provide identifying information for each obligated parent who maintains an account at the institution and owes an arrearage, and who shall be identified by the cabinet. Assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to KRS 205.745 shall be encumbered or surrendered in response to a notice of lien or levy issued by the cabinet. The cabinet may pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual cost. The financial institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a notice of lien or levy issued by the cabinet or for any other action taken in good faith to comply with the requirements of this subsection.

(15) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.

(16) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall forward to the Office of the Attorney General a list of names of delinquent obligors and, in cooperation with the Office of the Attorney General, shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 15.055.

(17) The cabinet shall compare a quarterly report provided by the Finance and Administration Cabinet of all tort claims made against the state by individuals with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

(18) The cabinet shall prepare and distribute to the cabinet's designee for the administration of the child support program information on child support collections and enforcement. The information shall include a description of how child support obligations are:

(a) Established;

(b) Modified;

(c) Enforced;

(d) Collected; and

(e) Distributed.

(19) The cabinet's designee for the administration of the child support program shall distribute, when appropriate, the following:

(a) Information on child support collections and enforcement; and

(b) Job listings posted by employment services.

Section 267. KRS 205.713 is amended to read as follows:

All forms, child support orders, wage withholding orders, or orders amending an existing child support order, entered in any case in Circuit Court, District Court, or family court that require entry into the state case registry under KRS 205.712(3) shall be entered on forms adopted by the Administrative Office of the Courts after consultation with the Cabinet for ***Health and Family Services***[~~Families and Children~~]. If the provisions of a child support order are contained in an order that is narrative in nature, the adopted forms shall be used in addition to the narrative order.

Section 268. KRS 205.7695 is amended to read as follows:

The Cabinet for ***Health and Family Services***[~~Families and Children~~] and the Revenue Cabinet shall work together to develop a system of information sharing for the effective and efficient collection of child support payments. Any requirement included in KRS Chapter 131, 205, 403, or 405 or any other law for either cabinet for the confidentiality of individual personal and financial records shall not be violated in the process of this coordination.

Section 269. KRS 205.774 is amended to read as follows:

(1) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall design, develop, implement, and operate a wage reporting and financial institution match system for the purpose of identifying the financial assets of individuals as identified by cabinet agencies, for the purpose of administering the child support enforcement program of the Commonwealth. The Cabinet for ***Health and Family Services***[~~Families and Children~~] may promulgate administrative regulations to implement this section.

(2) Each financial institution in the Commonwealth shall enter into an agreement with the Cabinet for ***Health and Family***

Services[~~Families and Children~~] to develop and operate a data match system to facilitate identification of financial assets of individuals identified by cabinet agencies for the purpose of administering the child support enforcement programs of the Commonwealth.

Section 270. KRS 205.776 is amended to read as follows:

(1) A financial institution furnishing a report or providing asset information of an individual owing past-due support to the Cabinet for ***Health and Family Services***[~~Families and Children~~] under either subsection (1) or subsection (2) of KRS 205.774 shall not disclose to a depositor or an account holder that the name of that person has been received from or furnished to the Cabinet for ***Health and Family Services***[~~Families and Children~~]. An institution may disclose to its depositors or account holder that under the financial institution match system the Cabinet for ***Health and Family Services***[~~Families and Children~~] has the authority to request certain identifying information on certain depositors or account holders.

(2) If a financial institution willfully violates the provisions of this section by releasing asset information of an individual owing child support to the Cabinet for ***Health and Family Services***[~~Families and Children~~], the institution shall pay to the Cabinet for ***Health and Family Services***[~~Families and Children~~] the lesser of one thousand dollars ($1,000) or the amount on deposit or in the account of the person to whom the disclosure was made.

(3) A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information to the Cabinet for ***Health and Family Services***[~~Families and Children~~] under KRS 205.774, or from the failure to disclose to a depositor or account holder that the name of the person was included in a list furnished by the financial institution to the Cabinet for ***Health and Family Services***[~~Families and Children~~], or in a report furnished by the financial institution to the Cabinet for ***Health and Family Services***[~~Families and Children~~].

(4) Regardless of whether the action was specifically authorized or described in KRS 205.715 to 205.800 or an agreement, a financial institution shall not be liable for providing or disclosing of any information; for encumbering, holding, refusing to release, surrendering, or transferring any account balance or asset; or any other action taken by a financial institution pursuant to KRS 205.715 to 205.800 or agreement as required by KRS 205.774.

(5) A financial institution shall not give notice to an account holder or customer of the financial institution that the financial institution has provided information or taken any action pursuant to KRS 205.715 to 205.800 or the agreement and shall not be liable for failure to provide that notice; provided however, that a financial institution may disclose to its depositors or account holders that, under the data match system, the cabinet has the authority to request certain identifying information on certain depositors or account holders. The cabinet shall notify, not less than annually, affected depositors or account holders who have not otherwise received notification.

(6) A financial institution may charge an account levied on by the Cabinet for ***Health and Family Services***[~~Families and Children~~] a fee of not more than twenty dollars (S20) which may be deducted from the account prior to remitting any funds to the Cabinet for ***Health and Family Services***[~~Families and Children~~].

Section 271. KRS 205.778 is amended to read as follows:

(1) When the cabinet determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a noncustodial parent who owes past-due support, a lien or levy shall, subject to the provision of subsection (3) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained. The cabinet shall provide a notice of the match, the lien or levy arising therefrom, and the action to be taken to block or encumber the account with the lien or levy for child support payment to the individual identified and the financial institution holding the account. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account based on a match until it is served with a notice of lien or order to withhold and deliver.

(2) The cabinet shall provide notice to the individual subject to a child support lien or levy on assets in an account held by a financial institution by sending them a notice of the lien or levy to withhold and deliver within two (2) business days of the date that notice is sent to the financial institution.

(3) A financial institution ordered to block or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is blocked or encumbered.

(4) Any levy issued on an identified account by the Cabinet for ***Health and Family Services***[~~Families and Children~~] for past-due child support shall have first priority over any other lien or levy issued by the Revenue Cabinet or any other agency, corporation, or association.

Section 272. KRS 205.796 is amended to read as follows:

No employee or agent of the Commonwealth shall divulge any information referred to in KRS 205.715 to 205.800, except in the manner prescribed in KRS 205.715 to 205.800 to any public or private agency or individual; provided, however, that information may be disclosed and shared by and between any employee of the Cabinet for ***Health and Family Services***[~~Families and Children~~] and any designee, local administering agency, or any local housing authority for the purpose of verifying eligibility and detecting and preventing fraud, error, and abuse in the programs included in the reporting system. Unauthorized disclosure of any information shall be a violation that is punishable by a fine of one hundred dollars ($100) per offense; except that the unauthorized release of the information about any individual shall be a separate offense from information released about any other individual.

Section 273. KRS 205.7965 is amended to read as follows:

Nothing in KRS 205.715 to 205.800 shall be construed to prevent the release by the Cabinet for ***Health and Family Services***[~~Families and Children~~] of wage and financial institution information data to the United States Social Security Administration or the agencies of other states who administer federally funded welfare and unemployment compensation programs.

Section 274. KRS 205.802 is amended to read as follows:

All forms, child support orders, wage withholding orders, or orders amending an existing child support order, entered in any case in Circuit, District, or Family Court that require entry into the state case registry pursuant to KRS 205.712(3) shall be entered on forms adopted by the Administrative Office of the Courts in coordination with the Cabinet for ***Health and Family Services***[~~Families and Children~~]. If the provisions of a child support order are contained in an order that is narrative in nature, the adopted forms shall be used in addition to the narrative order.

Section 275. KRS 205.8451 is amended to read as follows:

As used in KRS 205.8451 to 205.8483, unless the context otherwise requires:

(1) "Benefit" means the receipt of money, goods, or anything of pecuniary value from the Medical Assistance Program.

(2) "Fraud" means an intentional deception or misrepresentation made by a recipient or a provider with the knowledge that the deception could result in some unauthorized benefit to the recipient or provider or to some other person. It includes any act that constitutes fraud under applicable federal or state law.

(3) "Immediate family member" means a parent, grandparent, spouse, child, stepchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, sibling, brother-in-law, sister-in-law, or grandchild.

(4) "Intentional" or "intentionally" means, with respect to a result or to conduct described by a statute defining an offense, that a person's conscious objective is to cause that result or to engage in that conduct.

(5) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware that his conduct is of that nature or that the circumstance exists.

(6) "Medical Assistance Program" means the program of medical assistance as administered by the Cabinet for Health ***and Family*** Services in compliance with Title XIX of the Federal Social Security Act and any administrative regulations related thereto.

(7) "Provider" means an individual, company, corporation, association, facility, or institution which is providing or has been approved to provide medical services, goods, or assistance to recipients under the Medical Assistance Program.

(8) "Provider abuse" means, with reference to a health care provider, practices that are inconsistent with sound fiscal, business, or medical practices, and that result in unnecessary cost to the Medical Assistance Program established pursuant to this chapter, or that result in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes practices that result in unnecessary cost to the Medical Assistance Program.

(9) "Recipient" means any person receiving or who has received medical assistance benefits.

(10) "Recipient abuse" means, with reference to a medical assistance recipient, practices that result in unnecessary cost to the Medical Assistance Program or the obtaining of goods, equipment, medicines, or services that are not medically necessary, or that are excessive, or constitute flagrant overuse or misuse of Medical Assistance Program benefits for which the recipient is covered.

(11) "Wantonly" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts wantonly with respect thereto.

Section 276. KRS 205.8453 is amended to read as follows:

It shall be the responsibility of the Cabinet for Health ***and Family*** Services and the Department for Medicaid Services to control recipient and provider fraud and abuse by:

(1) Informing recipients and providers as to the proper utilization of medical services and methods of cost containment;

(2) Establishing appropriate checks and audits within the Medicaid Management Information System to detect possible instances of fraud and abuse;

(3) Sharing information and reports with other departments within the Cabinet for Health ***and Family*** Services, the Office of the Attorney General, and any other agencies that are responsible for recipient or provider utilization review; and

(4) Instituting other measures necessary or useful in controlling fraud and abuse.

Section 277. KRS 205.8455 is amended to read as follows:

(1) To implement provisions of this section, the commissioner of the Department for Medicaid Services shall create, no later than July 30, 1994, a Recipient Utilization Review Committee with the authority to:

  (a) Review individual recipient utilization or program benefits, recipient medical records, and other additional information or data necessary to make a decision;

  (b) Determine if a recipient has utilized the program or services in a fraudulent or abusive manner;

  (c) Refer cases of suspected recipient fraud to the Office of the Inspector General in the Cabinet for Health ***and Family*** Services;

  (d) Institute administrative actions to restrict or revoke the recipient's participation in the Medical Assistance Program; and

  (e) Initiate actions to recover the value of benefits received by the recipient which were determined to be related to fraudulent or abusive activities.

(2) The Recipient Utilization Review Committee shall be composed of five (5) members as follows: one (1) licensed physician, one (1) representative from the same program benefit area that is the subject of the review, one (1) recipient or representative of medical assistance benefits, one (1) representative of the Surveillance and Utilization Review Subsystems Unit, as required under Title XIX of the Social Security Act, and the commissioner of the Department for Public Health, who shall serve by virtue of his or her office.

(3) A medical assistance recipient whose eligibility has been revoked due to defrauding the Medical Assistance Program shall not be eligible for future medical assistance services for a period of not more than one (1) year or until full restitution has been made to the Department for Medicaid Services, whichever comes first.

(4) When a medical assistance recipient whose eligibility has been revoked due to defrauding of the Medical Assistance Program reapplies for coverage, during the period of revocation, due to pregnancy, a communicable disease, or other condition that creates a risk to public health, or a condition which if not treated could result in immediate grave bodily harm, the recipient utilization review committee for the Department for Medicaid Services may change the revoked status of the previously eligible recipient to restricted status if it has been determined that it would be in the best interest of the previously eligible medical assistance recipient to receive coverage for medical assistance services and the person is otherwise eligible. If this change in status is granted, the case shall be reconsidered by the Recipient Utilization Review Committee within sixty (60) days after the restricted status takes effect.

(5) Upon determination by the Recipient Utilization Review Committee of the Department for Medicaid Services that a medical assistance recipient has abused the benefits of the Medical Assistance Program, the recipient shall immediately be assigned and restricted to a managed care primary physician designated by the Department for Medicaid Services. Except in the case of an emergency as defined by the recipient utilization review committee and set forth by the Cabinet for Health ***and Family*** Services in an administrative regulation promulgated pursuant to KRS Chapter 13A, the restricted recipient shall be eligible to receive covered services only upon presenting to a participating provider, prior to the receipt of services, a dated written referral by the assigned managed care primary physician. Any participating provider who provides services to a medical assistance recipient in violation of the provisions of this subsection shall not be eligible for reimbursement for any services rendered.

(6) The Cabinet for Health ***and Family*** Services shall request any waivers of federal law that are necessary to implement the provisions of this section.

(7) The provisions of paragraphs (d) and (e) of subsection (1) of this section and of subsections (3), (4), and (5) of this section shall have no force or effect until and unless the requested waivers are granted.

(8) Nothing in this section shall authorize the Cabinet for Health ***and Family*** Services to waive the recipient's or provider's rights to prior notice and hearing as guaranteed by federal law.

(9) All complaints received by the Department for Medicaid Services, the Office of the Inspector General, the Office of the Attorney General, or by personnel of the Cabinet for Health ***and Family*** Services concerning possible fraud or abuse by a medical assistance recipient shall be forwarded immediately to the Recipient Utilization Review Committee for its consideration. Any cases of possible recipient fraud or abuse uncovered by personnel of the Cabinet for Health ***and Family*** Services or by providers shall also be referred immediately to the Recipient Utilization Review Committee for its review. Records shall be kept of all cases, including records of disposition, considered by the Recipient Utilization Review Committee.

Section 278. KRS 205.8457 is amended to read as follows:

Any provider agreeing to participate as a managed care primary physician of the state's Medical Assistance Program shall be responsible for prior approval of all medical-related services and goods, except transportation, of recipients assigned to the primary physician's care as set forth under administrative regulation promulgated by the Cabinet for Health ***and Family*** Services pursuant to KRS Chapter 13A. No primary physician may delegate that primary physician's authority to anyone except a provider designated by the managed care primary physician to temporarily be responsible for the primary physician's managed care patients during the primary physician's absence. The temporarily designated provider shall be approved by the Department for Medicaid Services. Procedures for delegation of authority to a temporarily designated provider shall be approved by the Department for Medicaid Services in accordance with any applicable federal laws or regulations.

Section 279. KRS 205.8463 is amended to read as follows:

(1) No person shall knowingly or wantonly devise a scheme or plan a scheme or artifice, or enter into an agreement, combination, or conspiracy to obtain or aid another in obtaining payments from any medical assistance program under this chapter by means of any fictitious, false, or fraudulent application, claim, report, or document submitted to the Cabinet for Health ***and Family*** Services, or intentionally engage in conduct which advances the scheme or artifice.

(2) No person shall intentionally, knowingly, or wantonly make, present, or cause to be made or presented to an employee or officer of the Cabinet for Health ***and Family*** Services any false, fictitious, or fraudulent statement, representation, or entry in any application, claim, report, or document used in determining rights to any benefit or payment.

(3) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled-nursing facility, intermediate-care facility, home-health agency, or other provider of services to the Medical Assistance Program.

(4) No person shall, in any matter within the jurisdiction of the Cabinet for Health ***and Family*** Services under this chapter, knowingly falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry.

(5) Any person who violates subsections (1) and (2) of this section shall be guilty of a Class A misdemeanor unless the sum total of benefits or payments claimed in any application, claim, report, or document, or in any combination or aggregation thereof, is valued at three hundred dollars ($300) or more in which case it shall be a Class D felony. Any person who violates the provisions of subsection (3) of this section shall be guilty of a Class C felony. Any person who violates the provisions of subsection (4) of this section shall be guilty of a Class D felony.

Section 280. KRS 205.8465 is amended to read as follows:

(1) Any person who knows or has reasonable cause to believe that a violation of this chapter has been or is being committed by any person, corporation, or entity, shall report or cause to be reported to the state Medicaid Fraud Control Unit, or the Medicaid Fraud and Abuse hotline, the following information, if known:

    (a) The name and address of the offender;

    (b) The offender's place of employment;

    (c) The nature and extent of the violation;

    (d) The identity of the complainant; and

    (e) Any other information that the receiving person reasonably believes might be helpful in investigation of the alleged fraud, abuse, or misappropriation.

The state Medicaid Fraud Control Unit shall periodically publicize the provisions of this subsection.

(2) The identity of any person making a report under this section shall be considered confidential by the receiving party. Any person making a report under this section regarding the offenses of another shall not be liable in any civil or criminal action based on the report if it was made in good faith.

(3) No employer shall, without just cause, discharge or in any manner discriminate or retaliate against any person who in good faith makes a report required or permitted by KRS 205.8451 to 205.8483, testifies, or is about to testify, in any proceeding with regard to any report or investigation. Any individual injured by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations, and to recover the actual damages sustained, together with the costs of the lawsuit, including a reasonable fee for the individual's attorney of record.

(4) No employee of the state Medicaid Fraud Control Unit, the Office of the Attorney General, the Office of the Inspector General, or the Cabinet for Health ***and Family*** Services shall notify the alleged offender of the identity of the person who in good faith makes a report required or permitted by KRS 205.8451 to 205.8483 nor shall the employee notify the alleged offender that a report has been made alleging a violation of KRS 205.8451 to 205.8483 until such time as civil or criminal proceedings have been initiated or a formal investigation has been initiated. Any information or report concerning an alleged offender shall be considered confidential in accordance with the Kentucky Open Records Law, KRS 61.870 to 61.884.

Section 281. KRS 205.8467 is amended to read as follows:

(1) Any provider who has been found by a preponderance of the evidence in an administrative process, in conformity with any applicable federal regulations and with due process protections, to have knowingly submitted or caused claims to be submitted for payment for furnishing treatment, services, or goods under a medical assistance program provided under this chapter, which payment the provider was not entitled to receive by reason of a violation of this chapter, shall:

    (a) Be liable for restitution of any payments received in violation of this chapter, and interest at the maximum legal rate pursuant to KRS 360.010 in effect on the date any payment was made, for the period from the date payment was made to the date of repayment to the Commonwealth;

    (b) Be liable for a civil payment in an amount up to three (3) times the amount of excess payments;

(c) Be liable for payment of a civil payment of five hundred dollars ($500) for each false or fraudulent claim submitted for providing treatment, services, or goods;

(d) Be liable for payment of legal fees and costs of investigation and enforcement of civil payments; and

(e) Be removed as a participating provider in the Medical Assistance Program for two (2) months to six (6) months for a first offense, for six (6) months to one (1) year for a second offense, and for one (1) year to five (5) years for a third offense.

(2) Civil payments, interest, costs of investigation, and enforcement of the civil remedies recovered on behalf of the Commonwealth under this section shall be remitted to the State Treasurer for deposit in a Medicaid trust fund which is hereby created and shall not lapse. Funds deposited in the Medicaid trust fund shall not be spent until appropriated by the General Assembly for medical assistance services.

(3) The remedies under this section are separate from and cumulative to any other administrative, civil, or criminal remedies available under federal or state law or regulation.

(4) The Cabinet for Health ***and Family*** Services, in consultation with the Office of the Attorney General, may promulgate administrative regulations, pursuant to KRS Chapter 13A, for the administration of the civil payments contained in this section.

Section 282. KRS 205.8469 is amended to read as follows:

(1) The Attorney General, on behalf of the Commonwealth, may commence proceedings to enforce KRS 205.8451 to 205.8483, and to prosecute for all other criminal offenses that involve or are directly related to the use of any Medical Assistance Program funds or services provided under this chapter.

(2) In enforcing KRS 205.8451 to 205.8483, the Attorney General may subpoena witnesses or documents to the grand jury, District Court, or Circuit Court of the county or counties where venue lies, and subpoena witnesses or documents to the Office of the Attorney General to secure testimony for use in civil or criminal trials, investigations, or hearings affecting the Cabinet for Health ***and Family*** Services.

Section 283. KRS 205.8471 is amended to read as follows:

(1) The Commonwealth shall have a lien against all property of any provider or recipient who is found to have defrauded the Medicaid program for an amount equal to the sum defrauded plus any interest and penalties levied under KRS 205.8451 to 205.8483. The lien shall attach to all property and rights to property owned by the provider or recipient and all property subsequently acquired after a finding of fraud by the Cabinet for Health ***and Family*** Services.

(2) The lien imposed by subsection (1) of this section shall not be defeated by gift, devise, sale, alienation, or any other means, and shall include the sum defrauded and all interest, penalties, fees, or other expenses associated with collection of the debt. The lien shall have priority over any other lien or obligation against the property, except as provided in subsection (3) of this section.

(3) The lien imposed by subsection (1) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien which was filed prior to the date on which notice of the lien created by this section is filed by the secretary for health ***and family*** services or his designee with the county clerk of the county or counties in which the provider's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice of lien shall be recorded in the same manner as the notice of lis pendens.

(4) The secretary for health ***and family*** services shall issue a partial release of any part of the property subject to lien upon payment by the debtor of that portion of the debt and any interest, penalty, or fees covered by the lien on that property.

(5) The secretary for health ***and family*** services may enforce the lien created pursuant to this section in the manner provided for the enforcement of statutory liens under KRS 376.110 to 376.130.

Section 284. KRS 205.8473 is amended to read as follows:

In a prosecution for any violation of the provisions of KRS 205.8451 to 205.8483, it shall be a defense if the person relied on the written advice of an employee or agent of the Cabinet for Health ***and Family*** Services, and the advice constitutes a defense under any of the provisions of KRS 501.070.

Section 285. KRS 205.8477 is amended to read as follows:

(1) Each health facility and health service as defined in KRS 216B.015 and each provider, participating in the Medical Assistance Program shall, as a condition of participation in the Medical Assistance Program, file annually with the Cabinet for Health ***and Family*** Services the names and addresses of all persons having direct or indirect ownership or control interest, as defined in 42 C.F.R. 455.101, with five percent (5%) or more interest in the health facility, or health service or the business of the provider and those Medical Assistance Program participating health facilities or health services with which the reporting provider, or health facility, or health service engages in a significant business transaction or a series of transactions that during any one (1) fiscal year, exceed the lesser of twenty-five thousand dollars ($25,000) or five percent (5%) of the total operating expenses of the provider, or health facility, or health service. The list of names and addresses shall be made available by the cabinet for public inspection during regular business hours and shall be updated annually.

(2) Each owner of or direct financial investor in any health facility or health service which dispenses or supplies drugs, medicines, medical devices, or durable medical equipment to a patient shall annually file with the Cabinet for Health ***and***

Family Services the names and addresses of any immediate family member who is authorized under state law to prescribe drugs or medicines or medical devices or equipment.

Section 286. KRS 205.8481 is amended to read as follows:

No staff of the Office of the Attorney General shall, in private practice of law, serve as legal counsel to or represent any provider, as defined in KRS 205.8451. Designated staff of the Office of the Attorney General shall work in cooperation with the Cabinet for Health ***and Family*** Services in any initiation of disciplinary proceedings against a health-care provider as defined in KRS 205.8451 and as may be authorized or required under KRS 205.8451 to 205.8483 for violations of KRS 205.8451 to 205.8483.

Section 287. KRS 205.8483 is amended to read as follows:

(1) The Office of the Inspector General in the Cabinet for Health ***and Family*** Services shall establish, maintain, and publicize a twenty-four (24) hour toll-free hotline for the purpose of receiving reports of alleged fraud and abuse by Medical Assistance Program recipients and participating providers.

(2) The Office of the Inspector General in the Cabinet for Health ***and Family*** Services shall prepare a written description of the reported information and immediately make a written referral to:

(a) The state Medicaid Fraud Control Unit and to the Office of the Attorney General of all reports of alleged fraud and abuse by providers or recipients participating in the Medical Assistance Program; and

(b) Other agencies and licensure boards of all reports relevant to their jurisdiction.

(3) The Office of the Inspector General in the Cabinet for Health ***and Family*** Services, jointly with the state Medicaid Fraud Control Unit and the Office of the Attorney General, shall prepare a Medicaid fraud and abuse report, for the prior fiscal year, categorized by types of fraud and abuse and by recipient and provider group. This report shall be submitted no later than July 1 of each year to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Health and Welfare and shall identify:

(a) The number and type of reports received in the Office of the Inspector General in the Cabinet for Health ***and Family*** Services, from the Medicaid fraud and abuse hotline categorized by recipient and provider groups;

(b) The number and type of alleged Medicaid fraud and abuse reports which were discovered by, received by, or referred to the Office of the Attorney General, the state Medicaid Fraud Control Unit, the Office of the Inspector General, and the Department for Medicaid Services; the number and type of reports which were opened for investigation by the Office of the Attorney General, the state Medicaid Fraud Control Unit, the Department for Medicaid Services, or the Office of the Inspector General and their disposition including:

1. Administrative actions taken;

2. Criminal penalties and civil payments received;

3. The amount of state and federal funds involved in the alleged fraud and abuse;

4. The cost of administering the hotline; and

5. Recommendations for legislative action to prevent, detect, and prosecute medical assistance abuse and fraud in the Commonwealth.

Section 288. KRS 205.900 is amended to read as follows:

As used in KRS 205.905 to 205.920:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services.

(2) "Evaluation team" means at least three (3) individuals employed as such by a qualified agency or organization.

(3) "Personal care assistance services" means services which are required by an adult with a severe physical disability to achieve greater physical independence and which include, but are not limited to:

(a) Routine bodily functions, such as bowel or bladder care;

(b) Dressing;

(c) Housecleaning and laundry;

(d) Preparation and consumption of food;

(e) Moving in and out of bed;

(f) Routine bathing;

(g) Ambulation; and

(h) Any other similar activity of daily living.

(4) "Qualified agency or organization" means an agency or organization whose purpose is to provide services to severely physically disabled adults to enable them to live as independently as possible and a majority of whose governing board are consumers of these services. If no qualified agency or organization exists, an agency or organization may become a qualified provider when consumers of personal care assistance services are a majority of its advisory council.

(5) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services.

(6) "Severely physically disabled adult" means a person eighteen (18) years of age or older with permanent or temporary, recurring functional loss of two (2) or more limbs.

Section 289. KRS 205.935 is amended to read as follows:

As used in KRS 205.940:

(1) "Cabinet" means the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(2) "Representative payee" means a person appointed by the Social Security Administration, Veterans Administration, or other nonprofit social service agency to provide financial management services to persons receiving Social Security Administration, Veterans Administration, or other government benefits, who are incapable of making or executing responsible financial decisions.

Section 290. KRS 205.940 is amended to read as follows:

(1) A representative payee fund shall be created for the purpose of providing grants to public or private organizations who provide representative payee services. The fund shall consist of moneys appropriated by the General Assembly. These moneys may also be supplemented by funds obtained from other sources for the fund as provided in this section.

(2) The fund shall be administered by the Cabinet for ***Health and Family Services***[~~Families and Children~~].

(3) Application for moneys from the fund may be made to the cabinet, on forms prescribed by administrative regulation. The awarding of grants shall be based upon the availability of funds. Grants shall be given to nonprofit organizations or agencies providing representative payee services to more than ten (10) persons who are mentally impaired, homeless or at risk of being homeless, or substance abusers in area development districts created pursuant to KRS 147A.050. The cabinet shall endeavor to fund an applicant where an eligible applicant exists. Health-care facilities or other institutions, who serve as representative payees for persons residing therein, shall not be eligible to receive funds under this section.

(4) In determining the amount of each grant, the cabinet shall consider the number of persons receiving representative payee services from an applicant, the amount necessary to reimburse the applicant for all or a portion of the administrative costs incurred in providing representative payee services, and any fee charged by an applicant for the provision of representative payee services.

(5) The cabinet shall require applicants receiving funds pursuant to this section to be bonded, and to file an annual report with the cabinet providing an accounting of all funds expended on behalf of persons for whom representative payee services are provided. The cabinet shall promulgate administrative regulations providing for the termination of a grant if it determines a representative payee is not serving in the best interests of a client. If a grant is terminated, the cabinet shall report the termination to the agency who appointed the representative payee and recommend the appointment of a new representative payee. If financial exploitation is indicated, the termination shall also be reported to the Department for Community Based Services for investigation pursuant to KRS Chapter 209.

(6) The cabinet may provide training for persons serving as representative payees and may provide technical assistance to applicants awarded a grant.

(7) The cabinet may apply for any grants that may be used to supplement the representative payee fund, and may accept gifts or donations to the fund.

Section 291. KRS 205.950 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall, by administrative regulation in accordance with KRS Chapter 13A, establish health, safety, and treatment requirements for certified adult day care centers. No person, association, corporation, or other organization shall operate or maintain an adult day care center without first obtaining a certification as provided in this section.

(2) The cabinet may issue a certification to any adult day care center meeting standards provided for under subsection (1) of this section. The cabinet may deny, revoke, suspend, or modify adult day care center certification for failure to comply with standards or when it determines the health, safety, or security of residents is in jeopardy. Actions to deny, revoke, suspend, or modify a certification may be appealed to the cabinet within thirty (30) days of receipt of notification of intent. Upon appeal, a hearing shall be conducted in accordance with KRS Chapter 13B.

Section 292. KRS 207.200 is amended to read as follows:

(1) The Kentucky Department of Workplace Standards is authorized to enforce the employment provisions of KRS 207.130 to 207.240 in conjunction with the State Attorney General's office and the state and local courts.

(2) Any individual with a disability requesting the intervention of the Kentucky Department of Workplace Standards under this section shall, within one hundred and eighty (180) days of the alleged incident, submit with his request a signed, sworn statement specifying and describing the disability or disabilities which affect him. This statement may be used by the commissioner of workplace standards or his representative to determine if the individual does, or does not, have a "physical disability" as defined in KRS 207.130(2). If the commissioner of workplace standards or his representative determines that the aggrieved individual does have a disability which falls under the definition in KRS 207.130(2), the Department of Workplace Standards shall provide a copy of the aggrieved individual's signed statement to the employer for his inspection.

(3) In the event the employer wishes to challenge the validity of the statement, he shall so notify the commissioner of

workplace standards, who shall in turn notify the aggrieved individual. If the aggrieved individual wishes the Department of Workplace Standards to continue its involvement with the case, he shall be required to submit to the commissioner of workplace standards, within thirty (30) days of such notice, a signed, sworn statement from a licensed physician of his choice, or from one of the state or federal agencies serving individuals with disabilities:

(a) Specifying and describing the disability or disabilities affecting the individual; and

(b) Indicating any specific type of employment for which such disability should be considered a bona fide or necessary reason for limitation or exclusion.

(4) (a) The state agencies which may be consulted under subsection (3) of this section may include, but are not limited to, the following:

1. Department of Education, Office of Vocational Rehabilitation Services;

2. Cabinet for Health ***and Family*** Services, Department for Public Health;

3. Cabinet for ***Health and Family Services***[~~Families and Children~~], Department for Disability Determination Services.

(b) The commissioner of workplace standards, in conjunction with the agencies designated in this subsection, is authorized to adopt appropriate regulations governing the issuance and setting the standards of determinations of ability or disability;

(c) The agencies designated in this subsection, and any other state agency which serves individuals with disabilities and which the commissioner of workplace standards deems proper, shall cooperate to the fullest with the Department of Workplace Standards in issuing a statement of disability and limitations as specified in subsection (3) of this section within twenty (20) days of the date the individual with a disability presents himself before such agency for examination.

(5) (a) For the purposes of KRS 207.130 to 207.240, the commissioner of workplace standards, or his authorized representative, shall have the power to enter the place of employment of any employer, labor organization, or employment agency to inspect and copy employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to make a preliminary determination that the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied;

(b) In the event that a preliminary determination is made that the aggrieved individual is not fully capable of carrying out the duties of the job which he or she had been denied, the aggrieved individual and the employer shall both be so advised;

(c) The aggrieved individual, within ten (10) days of receiving such notification, may file with the Department of Workplace Standards an application for reconsideration of the determination. Upon such application, the commissioner of workplace standards or his representative shall make a new determination within ten (10) days whether the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied. If the determination is again made that the aggrieved individual is not fully capable of carrying out these duties, the aggrieved individual and the employer shall both be so advised;

(d) In the event that a preliminary determination has been made that the aggrieved individual is fully capable of carrying out the duties of the job which he or she had been denied, the employer, labor organization, or employment agency shall be so advised and encouraged to make an immediate offer to the aggrieved individual of the position which he or she had been denied. In the event the position has already been filled, the employer, labor organization, or employment agency shall be encouraged to make an offer to the aggrieved individual of the next available position for which he or she is qualified.

Section 293. KRS 209.005 is amended to read as follows:

(1) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various state agency representatives from the following list:

(a) The Department for Community Based Services;

(b) The Department for Public Health;

(c) The Department for Mental Health and Mental Retardation;

(d) The ***Division***[~~Office~~] of Aging Services;

(e) The Division of ***Health Care Facilities and Services***[~~Long Term Care~~];

(f) The Office of the Ombudsman; and

(g) Area Agencies on Aging.

(2) The committee shall address issues of prevention, intervention, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including, but not limited to:

(a) Senior citizen centers;
(b) Local governmental human service groups;
(c) The Sanders-Brown Center on Aging at the University of Kentucky;
(d) Long Term Care Ombudsmen; and
(e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.

(3) The committee shall:
(a) Explore the need for a comprehensive statewide resource directory of services for the elderly;
(b) Enhance existing public awareness campaigns for elder abuse and neglect; and
(c) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.

(4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.

Section 294. KRS 209.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(2) "Cabinet" means the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(3) "Department" means the Department for Community Based Services of the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(4) "Adult" means:
(a) A person eighteen (18) years of age or older, who because of mental or physical dysfunctioning, is unable to manage his own resources or carry out the activity of daily living or protect himself from neglect, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services; or
(b) A person without regard to age who is the victim of abuse and neglect inflicted by a spouse;

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he obtains suitable care in or out of his home;

(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;

(7) "Abuse" means the infliction of physical pain, mental injury, or injury of an adult;

(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;

(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(11) "Emergency protective services" are protective services furnished an adult in an emergency;

(12) "Protective placement" means the transfer of an adult from his present living arrangement to another;

(13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;

(14) "Access to records" means that any representative of the Cabinet for ***Health and Family Services***[~~Families and Children~~] actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall be allowed access to the medical, mental, health, and financial records of the adult that are in the possession of any individual, hospital, firm, corporation or other facility, if necessary to complete the investigation mandated in this chapter; and

(15) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse of reasonable services to maintain health and welfare.

Section 295. KRS 209.160 is amended to read as follows:

There is hereby created a trust and agency account in the State Treasury to be known as the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars ($10) from each twenty-four dollars ($24) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the Revenue Cabinet. The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.

Section 296. KRS 209.420 is amended to read as follows:

(1) There is established within the Cabinet for ***Health and Family Services***[~~Families and Children~~] a statewide Senior and Physically Disabled Adult Discount Program for the purpose of making retail goods and services available at reduced rates to the Commonwealth's senior citizens.

(2) Program participation shall be voluntary and free. No fees, dues, or other charges shall be assessed by the cabinet nor required of the merchants or senior or physically disabled adult citizens who choose to participate. The cabinet shall invite retail merchants to participate in the program by extending discounts on their merchandise or services to physically disabled adults and citizens sixty (60) years of age and older. The conditions and rate of the discounts shall be determined by the participating businesses. Persons sixty (60) years of age and physically disabled adults shall be eligible to participate in the program by presenting valid proof of age or a statement from a licensed physician that the person is physically disabled to participating businesses.

(3) The secretary of the cabinet shall make such regulations as necessary to provide program identification for participating merchants and senior citizens lacking proof of age, informational brochures, directories of participating businesses, and other printed materials essential to the implementation and promotion of the program.

Section 297. KRS 209.500 is amended to read as follows:

The Kentucky Senior Games Program is hereby created within the ***Division***[~~Office~~] of Aging Services of the Cabinet for Health ***and Family*** Services. The program shall develop a year-round recreation, fitness, and health promotion program for Kentuckians fifty-five (55) years of age or older which shall provide a network of local competition and participation that culminates in a senior games state final.

Section 298. KRS 210.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(2) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association.

(3) "Chronic" means that clinically significant symptoms of mental illness have persisted in the individual for a continuous period of at least two (2) years, or that the individual has been hospitalized for mental illness more than once in the last two (2) years, and that the individual is presently significantly impaired in his ability to function socially or occupationally, or both.

(4) "Cabinet" means the Cabinet for Health ***and Family*** Services.

(5) "Deaf or hard-of-hearing" means having a hearing impairment so that a person cannot hear and understand speech clearly through the ear alone, irrespective of the use of any hearing aid device.

(6) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services.

Section 299. KRS 210.010 is amended to read as follows:

The secretary for health ***and family*** services shall have authority to prescribe rules and regulations for the administration of the cabinet and of the institutions under the control of the cabinet, including power to regulate the payment of money to patients in mental institutions for work performed.

Section 300. KRS 210.031 is amended to read as follows:

(1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.

  (a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:

    1. The Kentucky Association of the Deaf;
    2. The A.G. Bell Association;
    3. The Kentucky School for the Deaf Alumni Association; and
    4. Self Help for the Hard of Hearing.

  The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.

  (b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.

(c) The head of each of the following entities shall appoint one (1) member to the advisory committee:

1. The Cabinet for Health ***and Family*** Services, Department for Mental Health and Mental Retardation Services;

2. The Cabinet for Workforce Development, Department of Vocational Rehabilitation;

3. The Cabinet for Health ***and Family*** Services, ***Division***[~~Office~~] of Aging Services;

4. The Education, Arts, and Humanities Cabinet, Commission on the Deaf and Hard of Hearing;

5. The Kentucky Registry of Interpreters for the Deaf; and

6. A Kentucky School for the Deaf staff person involved in education.

(d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.

(2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.

(3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) shall serve without compensation or reimbursement of any kind.

(4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.

(5) The advisory committee shall meet quarterly at a location determined by the committee chair.

(6) (a) The advisory committee shall prepare a biennial report which:

1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;

2. Reports the number of deaf or hard-of-hearing persons served;

3. Identifies additional service needs for the deaf and hard-of-hearing; and

4. Identifies a plan to address unmet service needs.

(b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 301. KRS 210.040 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of persons with mental illness;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate with other state agencies for the development of a statewide mental health program looking toward the prevention of mental illness and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care, and medical and psychiatric treatment of the patients of the institutions operated by the cabinet;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for persons with mental retardation;

(6) Administer and supervise programs for the noninstitutional care of persons with mental illness;

(7) Administer and supervise programs for the care of persons with chronic mental illness, including but not limited to provision of the following:

(a) Identification of persons with chronic mental illness residing in the area to be served;

(b) Assistance to persons with chronic mental illness in gaining access to essential mental health services, medical and rehabilitation services, employment, housing, and other support services designed to enable persons with chronic mental illness to function outside inpatient institutions to the maximum extent of their capabilities;

(c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision; provided that, no more than either one (1) transitional facility or one (1) cooperative facility may be established in a county containing a city of the first class or consolidated local government with any funds available to the cabinet;

(d) Assurance of the availability of a case manager for each person with chronic mental illness to determine what services are needed and to be responsible for their provision; and

(e) Coordination of the provision of mental health and related support services with the provision of other support services to persons with chronic mental illness;

(8) Require all providers who receive public funds through state contracts, state grants, or reimbursement for services provided to have formalized quality assurance and quality improvement processes, including but not limited to a grievance procedure; and

(9) Supervise private mental hospitals receiving patients committed by order of a court.

Section 302. KRS 210.042 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services may provide, to the extent funds are available under KRS 210.040 and under conditions and standards established by the cabinet, funds to any nonprofit agency recognized as operating in the field of mental health and whose objectives are to carry out the purposes of KRS 210.040.

(2) The funds, if provided, may be matched on a fifty-fifty (50-50) basis by the nonprofit agency receiving such funds. The cabinet shall determine whether the match may be in money or in kind services or other match.

Section 303. KRS 210.045 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall:

(a) Maintain, operate, and assume program responsibility for all state institutions and facilities for mental retardation;

(b) Provide rehabilitation services for mentally retarded persons through educational and training programs;

(c) Provide medical and allied services to mentally retarded persons and their families;

(d) Encourage and assist communities to develop programs and facilities in the field of mental retardation;

(e) Sponsor or carry out research, or both, in the field of mental retardation;

(f) Assist other governmental and private agencies in the development of programs and services for mentally retarded persons and their families and for the prevention of mental retardation, and coordinate programs and services so developed;

(g) Provide written notice to the Legislative Research Commission of its intent to propose legislation to permit immediate or gradual closure of any state-owned or state-operated facility that provides residential services to persons with mental retardation or other developmental disabilities at least sixty (60) days prior to the next legislative session; and

(h) 1. Provide written notice by registered mail to each resident, his or her immediate family, if known, and his or her guardian of its intent to propose legislation to permit immediate or gradual closure of any state-operated facility that provides residential services to persons with mental retardation or other developmental disabilities at least sixty (60) days prior to the next legislative session; and

2. Include in the written notice provided under this paragraph that the resident, the resident's immediate family, his or her guardian, or any other interested party with standing to act on behalf of the resident has the right to pursue legal action relating to the notice provisions of this paragraph and relating to the closure of the facility.

(2) Any state-owned or state-operated facility or group home that provides residential services to persons with mental retardation or other developmental disabilities and that has been funded by the General Assembly in a specific biennium, shall not be closed, nor shall the Cabinet for Health ***and Family*** Services announce the pending closure of the facility, during the same biennium except through the provisions specified by subsection (1) of this section.

(3) The Cabinet for Health ***and Family*** Services may close any state-owned or state-operated facility that provides residential services to persons with mental retardation or other developmental disabilities upon the effective date of an adopted act of legislation.

(4) When a demonstrated health or safety emergency exists for a facility or a federal action that requires or necessitates a gradual or immediate closure exists for the facility, the cabinet may seek relief from the requirements of this section in the Circuit Court of the county where the facility is located. In these situations:

(a) The cabinet shall provide written notice by registered mail to each resident, the resident's immediate family, if known, and his or her guardian, at least ten (10) days prior to filing an emergency petition in the Circuit Court; and

(b) All interested parties, including the cabinet, the resident, his or her immediate family, his or her guardian, or other interested parties with standing to act on behalf of the resident shall have standing in the proceedings under this subsection.

(5) Any resident, family member or guardian, or other interested parties, as defined by KRS 387.510(12) with standing to act on behalf of the resident who wishes to challenge the decision or actions of the Cabinet for Health ***and Family*** Services regarding the notice requirements of subsection (1) of this section shall have a cause of action in the Circuit Court of the county in which the facility is located, or in Franklin Circuit Court. In addition to other relief allowable by law, the resident, family member or guardian, or other interested party with standing to act on behalf of the resident may seek

compensatory damages and attorney fees. Punitive damages shall not be allowable under this section.

(6) Any resident, family member or guardian, or other interested parties, as defined by KRS 387.510(12) with standing to act on behalf of the resident may challenge the decision of the state to close a facility in a de novo hearing in the Circuit Court of the county in which the facility is located, or in Franklin Circuit Court. In addition to other relief allowable by law, the resident, family member or guardian, or other interested party with standing to act on behalf of the resident may seek compensatory damages and attorney fees. Punitive damages shall not be allowable under this section.

Section 304. KRS 210.055 is amended to read as follows:

The Cabinet for Health ***and Family*** Services may:

(1) Promulgate reasonable rules and regulations for the purposes of carrying out the provisions of KRS 210.045, including regulations establishing the minimum and maximum ages within which mentally retarded persons are eligible:

(a) To participate in programs operated by the cabinet;

(b) To become patients in institutions operated by the cabinet;

(2) Participate in the education and training of professional and other persons in the field of mental retardation, and may encourage and assist private and public agencies and institutions to participate in similar education and training;

(3) Do all other things reasonably necessary to carry out the provisions of KRS 210.045.

Section 305. KRS 210.057 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall conduct research into all aspects of controlled substances as defined in KRS 218A.010 in coordination with the Kentucky Board of Pharmacy.

(2) The Cabinet for Health ***and Family*** Services may authorize persons engaged in research on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are subjects of such research. Persons who obtain this authorization may not be compelled in any state civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

(3) The Cabinet for Health ***and Family*** Services may authorize the possession and distribution of controlled dangerous substances by persons engaged in research. Persons who obtain this authorization shall be exempt from state prosecution for possession and distribution of dangerous substances to the extent authorized by the Cabinet for Health ***and Family*** Services.

Section 306. KRS 210.080 is amended to read as follows:

The secretary for health ***and family*** services may transfer any employee between the institutions operated by the cabinet, or to the headquarters of the cabinet. Necessary moving expenses involved in such transfers shall be paid by the cabinet.

Section 307. KRS 210.090 is amended to read as follows:

Neither the commissioner of the Department for Mental Health and Mental Retardation of the Cabinet for Health ***and Family*** Services nor his deputy nor any superintendent or director of an institution of the Department for Mental Health and Mental Retardation shall be permitted to engage in any partisan political activity.

Section 308. KRS 210.100 is amended to read as follows:

No officer or employee of any institution operated by the Cabinet for Health ***and Family*** Services shall be required to give personal attendance as a witness in any civil suit out of the county in which the institution is located, but his deposition shall be taken in lieu thereof.

Section 309. KRS 210.110 is amended to read as follows:

(1) No officer, employee, or agent of the Cabinet for Health ***and Family*** Services, a regional community mental health-mental retardation board or a nonprofit corporation administering a regional community mental health-mental retardation program shall sell anything to any institution, facility, or organization under the control of the cabinet nor participate in selection, or in the award or administration of a contract supported by state or federal funds if a conflict of interest, real or apparent, would be involved.

(2) Such a conflict of interest would arise when:

(a) The employee, officer, or agent;

(b) Any member of his immediate family;

(c) His or her partner; or

(d) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

Section 310. KRS 210.120 is amended to read as follows:

No physician or doctor employed by the Cabinet for Health ***and Family*** Services shall receive or accept any compensation for personal services other than that paid by the state, except that the secretary, and other physicians and doctors when so authorized by the secretary, may be employed in, and receive compensation from outside activities such as teaching, research, or community service work, to an extent that will not interfere with the performance of the duties of their office or employment.

Section 311. KRS 210.130 is amended to read as follows:

Religious instruction and ministration for patients of the institutions operated by the Cabinet for Health ***and Family*** Services shall be provided.

Section 312. KRS 210.170 is amended to read as follows:

The Cabinet for Health ***and Family*** Services may accept money from the federal government, or any of its agencies, under any grant agreement entered into by this state or by the cabinet. Such money may be expended for capital outlay in accordance with the provisions of KRS 56.440 to 56.550. The cabinet also may accept grants, gifts, bequests, or devises from public or private sources, and use the same for any purpose within the scope of the functions of the cabinet, consistent with the terms of the grant, gift, bequest, or devise.

Section 313. KRS 210.180 is amended to read as follows:

There shall be established and maintained, at each of the institutions operated by the Cabinet for Health ***and Family*** Services, a canteen which shall be incorporated and self-supporting. The directors of each canteen shall be appointed by the secretary. All profits from each canteen shall be used exclusively for the benefit of the patients of the institution.

Section 314. KRS 210.190 is amended to read as follows:

The secretary of the Cabinet for Health ***and Family*** Services may utilize the services of the workers of the other cabinets, when authorized by the agency heads of these cabinets. The secretary of the Cabinet for Health ***and Family*** Services may authorize payment of the actual traveling expenses of the workers so utilized.

Section 315. KRS 210.220 is amended to read as follows:

No patient of any of the institutions operated by the Cabinet for Health ***and Family*** Services shall be denied the right to correspond with an attorney or with the secretary.

Section 316. KRS 210.230 is amended to read as follows:

The secretary of the Cabinet for Health ***and Family*** Services may prescribe appropriate records to be maintained covering the operations of the cabinet and of the institutions operated by it, and covering involuntary hospitalization procedures. Any record forms applicable to involuntary hospitalization procedures shall be furnished to each court having jurisdiction to order hospitalization of mentally ill or retarded persons, and the records contemplated by such forms shall thereafter be made by the hospitalizing courts.

Section 317. KRS 210.235 is amended to read as follows:

All applications and requests for admission and release, and all certifications, records, and reports of the Cabinet for Health ***and Family*** Services which directly or indirectly identify a patient or former patient or a person whose hospitalization has been sought, shall be kept confidential and shall not be disclosed by any person, except insofar as:

(1) The person identified or his guardian, if any, shall consent; or

(2) Disclosure may be necessary to carry out the provisions of the Kentucky Revised Statutes, and the rules and regulations of cabinets and agencies of the Commonwealth of Kentucky; or

(3) Disclosure may be necessary to comply with the official inquiries of the departments and agencies of the United States government; or

(4) A court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and failure to make such disclosure would be contrary to the public interest. Nothing in this section shall preclude the disclosure, upon proper inquiry of the family or friends of a patient, of information as to the medical condition of the patient.

Section 318. KRS 210.240 is amended to read as follows:

The secretary of the Cabinet for Health ***and Family*** Services is authorized to establish training schools within the cabinet or within any of the institutions operated by the cabinet, for the training of necessary personnel for the institutions, or may arrange for the training of employees or prospective employees in any public or private school or institution having available facilities for that purpose. Funds of the cabinet may be used to pay salaries to employees, or to pay tuition and subsistence for employees or prospective employees, while receiving such training. Any employee or prospective employee who is paid a salary, or for whom tuition and subsistence are furnished, while receiving such training, shall be required to enter into a contract, prior to receiving such training, that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of such training, he will reimburse to the cabinet the sum paid to or for him by the cabinet during the period of training.

Section 319. KRS 210.267 is amended to read as follows:

The residents of state mental hospitals may manufacture and produce for their own use, or for sale, such articles, furniture, clothing, tools, products, and other supplies and engage in such labor or work of construction as may be approved by the Cabinet for Health ***and Family*** Services.

Section 320. KRS 210.270 is amended to read as follows:

(1) The secretary of the Cabinet for Health ***and Family*** Services is authorized to designate those private homes, private nursing homes, and private institutions that he deems, after a thorough investigation of the personal and financial

qualifications of the owners and tenants, the facilities and management, and the desirability of the location of the homes, suitable for the placement of patients, including individuals with mental illness or mental retardation of all ages, outside of the state mental hospitals. The secretary of the Cabinet for Health ***and Family*** Services may promulgate, by administrative regulation, standards for the selection and operation of private homes, private nursing homes, and private institutions designated for the placement of patients. No home of an officer or employee of the Cabinet for Health ***and Family*** Services or of a member of his immediate family shall be designated for the placement of patients.

(2) Whenever the staff of a state mental hospital has determined that a patient who is not being held on an order arising out of a criminal offense has sufficiently improved and is not dangerous to himself or other persons, and that it would be in the patient's best interest to be placed outside of the hospital in a private home or private nursing home, the hospital shall so certify and authorize the patient to be transferred to a designated private home or private nursing home for care and custody for a length of time that the hospital deems advisable.

(3) No patient with mental retardation lodged in a state institution may have his level of care reclassified nor may he be transferred to a private nursing home or other private institution without first providing ten (10) days' notice by certified mail, return receipt requested, to the patient's parents or guardian that a reclassification of the patient's level of care or a transfer in the place of residence is being considered.

(4) Any parent or guardian of any patient with mental retardation lodged in a state institution may participate in any evaluation procedure which may result in a reclassification of the patient's level of care or in a transfer in the place of residence of the patient. Participation may include the submission by the parents or guardian of medical evidence or any other evidence deemed relevant by the parents or guardian to the possible reclassification or transfer of the patient.

(5) If the decision to reclassify or transfer any patient with mental retardation is adverse to the best interests of the patient as expressed by the parents or guardian, they shall be given notice by certified mail, return receipt requested, that they are entitled to a thirty (30) day period from the receipt of such notice to file with the secretary of the Cabinet for Health ***and Family*** Services a notice of appeal and application for a hearing. Upon receipt of an application for a hearing, a hearing shall be conducted in accordance with KRS Chapter 13B.

(6) The appeal shall be heard by a three (3) member panel composed of a designated representative of the Cabinet for Health ***and Family*** Services, a designated representative of the state institution where the patient with mental retardation is presently lodged, and a designated neutral representative appointed by the county judge/executive wherein the institution in question is located. The secretary may appoint a hearing officer to preside over the conduct of the hearing.

(7) Decisions made by the panel may be appealed to the Circuit Court of the county in which the state institution in question is located, to the Circuit Court of the county in which either of the parents or guardians or committee of the patient in question is domiciled at the time of the decision, or to Franklin Circuit Court in accordance with KRS Chapter 13B.

(8) All parents or guardians or committee of a patient with mental retardation lodged in a state institution shall be fully apprised by the Cabinet for Health ***and Family*** Services of their rights and duties under the provisions of subsections (3), (4), (5), (6), and (7) of this section.

(9) The provisions of KRS 210.700 to 210.760 shall apply to patients transferred to designated private homes and private nursing homes as though the patients were residing in a state mental hospital.

Section 321. KRS 210.271 is amended to read as follows:

(1) No patient in an institution for the mentally ill or the mentally retarded operated by the Cabinet for Health ***and Family*** Services shall be discharged to a boarding home as defined in KRS 216B.300 unless the boarding home is registered pursuant to KRS 216B.305.

(2) The cabinet shall conduct a quarterly follow-up visit, using cabinet personnel or through contract with the Regional Community Mental Health Centers, of all patients of state mental health or mental retardation facilities that are discharged to boarding homes. Any resident found to have needs that cannot be met by the boarding home shall be referred to the Department for Community Based Services for appropriate placement. Any boarding home suspected of operating as an unlicensed personal care facility or housing residents with needs that cannot be met by the boarding home shall be reported to the Division of Community Health Services for investigation.

Section 322. KRS 210.285 is amended to read as follows:

In addition to the specific authority granted by other provisions of KRS Chapters 202A, 202B, and 210, the Cabinet for Health ***and Family*** Services shall have authority to prescribe the form of applications, records, reports, and medical certificates provided for under KRS Chapters 202A, 202B, and 210 and the information required to be contained therein; to require reports from the head of any hospital relating to the admission, examination, diagnosis, release, or discharge of any patient; to visit hospitals regularly to review the hospitalization procedures of all new patients admitted between visits; to investigate by personal visit complaints made by any persons on behalf of any patients or by any patients themselves; and to adopt such rules and regulations not inconsistent with the provisions of KRS Chapters 202A, 202B, and 210 as it may find to be reasonably necessary for proper and efficient hospitalization of the mentally ill.

Section 323. KRS 210.290 is amended to read as follows:

(1) The Cabinet for ***Health and Family Services***[~~Families and Children~~] may be appointed and act as executor, administrator, guardian, limited guardian, conservator, or limited conservator as provided in this section. In this capacity the cabinet may

transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the cabinet.

(2) Whenever a resident of the state is adjudged partially disabled or disabled and no other suitable person or entity is available and willing to act as limited guardian, guardian, limited conservator, or conservator, the cabinet, acting through its designated officer, may apply to the District Court of the county in which the adjudication is made for appointment as limited guardian, guardian, limited conservator, or conservator for such partially disabled or disabled person.

(3) Upon the death of a person for whom the cabinet has been appointed guardian or conservator, or upon the death of a person who has been committed to the cabinet leaving an estate and having no relatives at the time residing within the state, the cabinet may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The cabinet may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The cabinet shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs, and other expenses incurred in the administration of estates. Claims of the cabinet against the estates shall be considered in the same manner as any other claim.

(6) An officer designated by the secretary may act as legal counsel for any patient in a state mental hospital or institution against whom a suit of any nature has been filed, without being appointed as guardian, limited guardian, conservator, or limited conservator.

(7) Patients hospitalized pursuant to KRS Chapters 202A and 202B who are not adjudged disabled or partially disabled may authorize the Cabinet for ***Health and Family Services***~~[Families and Children]~~ to handle personal funds received by them at the hospital in the same manner as prescribed in subsections (4) and (5) of this section.

Section 324. KRS 210.300 is amended to read as follows:

The secretary of the Cabinet for Health ***and Family*** Services shall prescribe from time to time, by regulations, for the designation of hospital districts, for the purpose of determining to which of the state institutions for the mentally ill the persons admitted from each county shall initially be sent.

Section 325. KRS 210.360 is amended to read as follows:

(1) When a person who has been twice previously convicted of a felony is indicted by a grand jury as a persistent felony offender, the circuit clerk of the court in which he is indicted shall give notice of the indictment to the secretary of the Cabinet for Health ***and Family*** Services within seven (7) days after the indictment is returned by the grand jury. The secretary shall cause such person to be examined by a psychiatrist or licensed clinical psychologist already in the employ of the cabinet, to determine his mental condition and the existence of any mental illness or retardation which would affect his criminal responsibility. This examination shall be made without expense other than the amount to cover necessary travel, as provided by law for any other employee of the state traveling on official business.

(2) The psychiatrist or licensed clinical psychologist making the examination shall submit a written report of his findings to the judge of the court having jurisdiction, who shall make the report available to the prosecuting attorney and the attorney for the defendant.

(3) The secretary may decline to cause such examination to be made if the number of psychiatrists or licensed clinical psychologists on duty in the cabinet is insufficient to spare one from his regular official duties, in which event the secretary shall notify the clerk of the Circuit Court to that effect within three (3) days.

Section 326. KRS 210.365 is amended to read as follows:

(1) As used in this section:

(a) "Prisoner" has the same meaning as set out in KRS 441.005; and

(b) "Qualified mental health professional" has the same meaning as set out in KRS 202A.011.

(2) The Cabinet for Health ***and Family*** Services shall create a telephonic behavioral health jail triage system to screen prisoners for mental health risk issues, including suicide risk. The triage system shall be designed to give the facility receiving and housing the prisoner an assessment of his or her mental health risk, with the assessment corresponding to recommended protocols for housing, supervision, and care which are designed to mitigate the mental health risks identified by the system. The triage system shall consist of:

(a) A screening instrument which the personnel of a facility receiving a prisoner shall utilize to assess inmates for mental health, suicide, mental retardation, and acquired brain injury risk factors; and

(b) A continuously available toll-free telephonic triage hotline staffed by a qualified mental health professional which the screening personnel may utilize if the screening instrument indicates an increased mental health risk for the assessed prisoner.

(3) In creating and maintaining the telephonic behavioral health jail triage system, the cabinet shall consult with:

(a) The Department of Corrections;

(b) The Kentucky Jailers Association;

(c) The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses; and

(d) The regional community mental health and mental retardation services programs created under KRS 210.370 to 210.460.

(4) The cabinet may delegate all or a portion of the operational responsibility for the triage system to the regional community mental health and mental retardation services programs created under KRS 210.370 to 210.460 if the regional program agrees and the cabinet remains responsible for the costs of delegated functions.

(5) The cabinet shall design into the implemented triage system the ability to screen and assess prisoners who communicate other than in English or who communicate other than through voice.

(6) The cost of operating the telephonic behavioral health jail triage system shall be borne by the cabinet.

(7) Records generated under this section shall be treated in the same manner and with the same degree of confidentiality as other medical records of the prisoner.

(8) Unless the prisoner is provided with an attorney during the screening and assessment, any statement made by the prisoner in the course of the screening or assessment shall not be admissible in a criminal trial of the prisoner, unless the trial is for a crime committed during the screening and assessment.

(9) The cabinet may, after consultation with those entities set out in subsection (3) of this section, promulgate administrative regulations for the operation of the telephonic behavioral health jail triage system and the establishment of its recommended protocols for prisoner housing, supervision, and care.

Section 327. KRS 210.370 is amended to read as follows:

Any combination of cities or counties of over fifty thousand (50,000) population, and upon the consent of the secretary of the Cabinet for Health ***and Family*** Services, any combination of cities or counties with less than fifty thousand (50,000) population, may establish a regional community mental health and mental retardation services program and staff same with persons specially trained in psychiatry and related fields. Such programs and clinics may be administered by a community mental health-mental retardation board established pursuant to KRS 210.370 to 210.460, or by a nonprofit corporation.

Section 328. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health ***and Family*** Services, each community mental health-mental retardation board shall:

(1) Review and evaluate mental health and mental retardation services provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health ***and Family*** Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;

(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;

(3) Promote, arrange, and implement working agreements with other social service agencies, both public and private, and with other educational and judicial agencies;

(4) Adopt and implement policies to stimulate effective community relations;

(5) Be responsible for the development and approval of an annual plan and budget;

(6) Act as the administrative authority of the community mental health and mental retardation program; and

(7) Oversee and be responsible for the management of the community mental health and mental retardation program in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health ***and Family*** Services.

Section 329. KRS 210.405 is amended to read as follows:

(1) Any regional community mental health-mental retardation board established pursuant to KRS 210.380 and recognized by the secretary of the Cabinet for Health ***and Family*** Services may be appointed and act as executor, administrator, guardian, limited guardian, conservator, or limited conservator, as provided in this section. In this capacity, the board may transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the board.

(2) Whenever a person who has been adjudged mentally disabled and requires mental health services has no guardian or conservator, the board, acting through its designated officer, may apply to the District Court of the county in which the adjudication was made for its appointment as guardian or conservator for such mentally disabled person. The board may also apply to be substituted as guardian or conservator for a mentally disabled person whose guardian or conservator is the Cabinet for ***Health and Family Services***[~~Families and Children~~] and who has been discharged or whose discharge is imminent from a Cabinet for Health ***and Family*** Services facility.

(3) Upon the death of a person for whom the board has been appointed guardian or conservator leaving an estate and having no relatives at the time residing within the state, the board may apply for appointment as administrator and upon

appointment shall close the administration of the estate.

(4) The board may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The board shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs, and other expenses incurred in the administration of estates. Claims of the board against the estates shall be considered in the same manner as any other claim.

Section 330. KRS 210.410 is amended to read as follows:

(1) The secretary of the Cabinet for Health ***and Family*** Services is hereby authorized to make state grants and other fund allocations from the Cabinet for Health ***and Family*** Services to assist any combination of cities and counties, or nonprofit corporations in the establishment and operation of regional community mental health and mental retardation programs which shall provide at least the following services:

(a) Inpatient services;

(b) Outpatient services;

(c) Partial hospitalization or psychosocial rehabilitation services;

(d) Emergency services;

(e) Consultation and education services; and

(f) Mental retardation services.

(2) The services required in subsection (1)(a), (b), (c), (d), and (e) of this section shall be available to the mentally ill, drug abusers and alcohol abusers, and all age groups including children and the elderly. The services required in subsection (1)(a), (b), (c), (d), (e), and (f) shall be available to the mentally retarded. The services required in subsection (1)(b) of this section shall be available to any child age sixteen (16) or older upon request of such child without the consent of a parent or legal guardian, if the matter for which the services are sought involves alleged physical or sexual abuse by a parent or guardian whose consent would otherwise be required.

Section 331. KRS 210.420 is amended to read as follows:

(1) Except as hereinafter provided, grants from state general funds for any program shall not exceed fifty percent (50%) of the total expenditures for:

(a) Salaries;

(b) Contract facilities and services;

(c) Operation, maintenance, and service costs;

(d) Per diem and travel expenses for members of the community mental health-mental retardation boards; and

(e) Other expenditures specifically approved by the secretary for health ***and family*** services.

No grants from state general funds shall be made for capital expenditures. Grants from state general funds may be made for expenditures for mental health and mental retardation services whether provided by operation of a local facility or through contract with other public or private agencies.

(2) The secretary of the Cabinet for Health ***and Family*** Services shall distribute to community mental health-mental retardation boards those general funds appropriated to the cabinet for the operation of regional community mental health-mental retardation programs. This distribution shall be by a formula which includes provisions for:

(a) Per capita allocations;

(b) Incentive allocations which require local matching funds based on the per capita wealth of the area served; and

(c) Discretionary allocations to be available to the secretary to maintain essential services pursuant to KRS 210.410.

The formula for allocation of community mental health-mental retardation program general funds shall be prescribed by administrative regulations.

Section 332. KRS 210.430 is amended to read as follows:

Any community mental health-mental retardation board or nonprofit corporation administering a mental health and mental retardation services program may apply for the assistance provided by KRS 210.370 to 210.460 by submitting annually to the secretary of the Cabinet for Health ***and Family*** Services its plan, budget, and membership of the board for the next fiscal year. No program shall be eligible for a state grant and other fund allocations from the Cabinet for Health ***and Family*** Services hereunder unless its plan and budget have been approved by the secretary of the Cabinet for Health ***and Family*** Services, and no program shall be eligible for a state grant and other fund allocations from the Cabinet for Health ***and Family*** Services hereunder unless the board composition is reasonably representative of those groups enumerated in KRS 210.380.

Section 333. KRS 210.440 is amended to read as follows:

(1) At the beginning of each fiscal year, the secretary of the Cabinet for Health ***and Family*** Services shall allocate available funds to the mental health-mental retardation boards or nonprofit organizations for disbursement during the fiscal year in accordance with approved plans and budgets. The secretary shall, from time to time during the fiscal year, review the

operations, budgets, and expenditures of the various programs; and if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw any funds that are unencumbered and reallocate them to other programs. He may withdraw funds from any program, or component part thereof, which is not being operated and administered in accordance with its approved plan and budget, and the policies and administrative regulations of the cabinet promulgated pursuant to KRS 210.370 to 210.480.

(2) If the secretary finds at any time that a mental health-mental retardation board or nonprofit organization to which funds have been allocated for the operation of a regional community mental health and mental retardation program is not operating and administering its program in compliance and accordance with the approved plan and budget and the policies and administrative regulations of the cabinet, he may withdraw his recognition of that board or organization as the local authority for the receipt of funds and the operation and administration of regional community mental health and mental retardation programs.

(3) If the secretary finds at any time that an emergency situation exists with regard to the financial stability of any regional mental health-mental retardation board or nonprofit organization, which jeopardizes the continuation of programs and provision of services in the area served by that board or nonprofit organization, he may, other statutes to the contrary notwithstanding:

(a) Appoint a caretaker administrator who shall be authorized to direct the operation and administration of the board or nonprofit organization's community mental health and mental retardation programs including, but not limited to, their financial record keeping, their personnel management operations, and their financial and program reporting; and

(b) Make personnel changes deemed necessary to insure the continued operation of the board or nonprofit organization in compliance with its plan and budget and the policies and regulations of the cabinet.

(4) Any community mental health-mental retardation board to be affected by the provisions of subsections (2) and (3) of this section shall be notified by the secretary of the Cabinet for Health ***and Family*** Services thirty (30) days prior to the anticipated action by the secretary. The notification shall be by means of a letter from the secretary to the chairman of the mental health-mental retardation board in question and shall state the reasons for the anticipated action. Following the notification, the mental health-mental retardation board may:

(a) Comply with the secretary's action without contesting it; or

(b) Request an administrative hearing before a hearing officer appointed by the secretary to show cause why the action should not stand. The application shall be made within seven (7) days of the receipt of the letter from the secretary, and the hearing shall be conducted in accordance with KRS Chapter 13B.

Section 334. KRS 210.450 is amended to read as follows:

In addition to the powers and duties already conferred upon him by the law, the secretary of the Cabinet for Health ***and Family*** Services shall:

(1) Promulgate policies and regulations governing eligibility of community mental health and mental retardation programs to receive state grants and other fund allocations from the Cabinet for Health ***and Family*** Services, prescribing standards for qualification of personnel and quality of professional service and for in-service training and educational leave programs for personnel, governing eligibility for service so that no person will be denied service on the basis of race, color or creed, or inability to pay, providing for establishment of fee schedules which shall be based upon ability to pay, regulating fees for diagnostic services, which services may be provided for anyone without regard to his financial status, when referred by the courts, schools, or health and welfare agencies whether public or private, governing financial record keeping, prescribing standards for personnel management operations, providing for financial and program reporting requirements, and such other policies and regulations as he deems necessary to carry out the purposes of KRS 210.370 to 210.460;

(2) Review and evaluate local programs and the performance of administrative and psychiatric personnel and make recommendations thereon to community mental health-mental retardation boards and program administrators;

(3) Provide consultative service, by mental health and mental retardation professionals qualified by education and training, to communities to assist in ascertaining local needs and in planning and establishing community mental health and mental retardation programs;

(4) Employ necessary and qualified personnel to implement KRS 210.370 to 210.460; and

(5) Review annually the community mental health-mental retardation boards' personnel policies, procedures, and personnel compensation plans and disapprove if not consistent with accepted standards of personnel and salary administration prescribed by the cabinet.

Section 335. KRS 210.470 is amended to read as follows:

(1) It is the intent of this section to create a mental health and mental retardation taxing district by operation of law in each county coming under the provisions of KRS 210.370 to 210.460, in order to implement KRS 210.460.

(2) In all counties which have participated in the establishment of a regional community mental health and mental retardation services program under KRS 210.380, a mental health and mental retardation taxing district is hereby declared to be created.

(3) The members of the community mental health-mental retardation board recognized by the secretary for health ***and family*** services pursuant to KRS 210.380 shall, by virtue of their office, constitute and be the governing board of the mental health and mental retardation taxing district and shall perform the duties attendant thereto in addition to their duties as members of the community mental health-mental retardation board. Officers of the community mental health-mental retardation board shall be the officers of the mental health and mental retardation taxing district.

Section 336. KRS 210.480 is amended to read as follows:

(1) If, after the establishment of the mental health and mental retardation taxing district as provided for in this section, KRS 210.460, and KRS 210.470, the tax levying authorities in member areas of the district, in the opinion of the community mental health-mental retardation board, do not appropriate an amount sufficient to meet the needs of the mental health and mental retardation services program and clinic, as established pursuant to KRS 210.370, the community mental health-mental retardation board, acting as the governing body of the taxing district shall, with the approval of the Cabinet for Health ***and Family*** Services, request the fiscal courts in each of the member areas which have not contributed a sufficient proportionate share of the cost of the program, to impose a special ad valorem mental health and mental retardation tax in such amount that it deems sufficient, but not in excess of four cents ($0.04) per one hundred dollars ($100) of full assessed valuation. The fiscal court may, upon receipt of a duly certified copy of said request, include in the next ad valorem tax levy said special mental health and mental retardation tax imposed by the mental health-mental retardation board which shall be in addition to all other county ad valorem taxes. If levied by the fiscal court, said special mental health and mental retardation tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the community mental health-mental retardation board to be used for the maintenance and operation of the mental health and mental retardation services program and clinic as provided in KRS 210.460. No appropriation for a mental health and mental retardation services program and clinic established under KRS 210.370 shall be reduced or eliminated on the grounds that a special tax has been levied where the community mental health-mental retardation board requested the amount levied as a necessary supplement to that appropriation. Taxing districts organized pursuant to KRS 210.470 shall not be subject to the provisions of the compensating tax rate as defined by KRS 132.010 nor to Acts 1965 (1st Ex. Sess.), ch. 2.

(2) Nothing contained in this section shall be construed as precluding any city or county from appropriating or allocating funds in any other manner for the support of the regional mental health and mental retardation services program and clinic, pursuant to KRS 210.460, or any other statutory provision.

Section 337. KRS 210.710 is amended to read as follows:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services.

(2) "Facility" means a hospital or other institution operated or utilized by the cabinet for the mentally ill, mentally retarded or respiratory disease patients.

(3) "Homestead" means a place where a family makes its home including the land, house and furnishings, outbuildings, vehicles, and tools of the trade formerly occupied by the patient which is exempted by KRS 210.710 to 210.760 from liability to meet patient charges for services rendered in a facility.

(4) "Means test" means a uniform method adopted by the secretary for determining the ability to pay of the patient or person responsible for the patient for board, maintenance and treatment at a facility operated or utilized by the cabinet.

(5) "Person responsible for the patient" includes parents, spouses, guardians, and committees within the scope of their fiduciary duties.

(6) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services.

Section 338. KRS 211.015 is amended to read as follows:

(1) As used in KRS 211.005 to 211.380, unless the context requires otherwise:

  (a) "Cabinet" means the Cabinet for Health ***and Family*** Services;

  (b) "Farmstead" means a farm dwelling, together with other farm buildings and structures incident to the operation and maintenance of the farm, situated on ten (10) contiguous acres or more of land outside the corporate limits of a municipality:

    1. Used for the production of livestock, livestock products, poultry, poultry products, dairy, dairy products, or horticulture products or for the growing of crops such as, but not limited to, tobacco, corn, soybeans, and wheat; or

    2. Where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;

  (c) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services; and

  (d) "Private water supply" means a residential water supply located on private property under the control of a person holding a possessory interest in the property, the use of which is limited to family members.

(2) As used in KRS 200.560 and 200.550, unless the context otherwise requires:

  (a) "Department" means Department for Public Health;

(b) "Commissioner" means the commissioner of the Department for Public Health;

(c) "Committee" means the Hemophilia Advisory Committee; and

(d) "Hemophilia" means a bleeding disorder resulting from a genetically determined deficiency factor in the blood, or hereditarily resulting in an abnormal or deficient plasma procoagulant.

Section 339. KRS 211.027 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall promulgate reasonable rules and regulations to effectuate the purposes of KRS 213.101 and 213.106 and KRS 311.710 to 311.810, which shall be submitted to the Legislative Research Commission in a manner prescribed in KRS Chapter 13A; the Legislative Research Commission shall refer said rules and regulations to the Interim Committee on Health and Welfare for the purpose of approval or disapproval.

Section 340. KRS 211.130 is amended to read as follows:

As used in KRS 211.130 to 211.160, unless the context requires otherwise:

(1) "Cabinet" shall mean the Cabinet for Health ***and Family*** Services;

(2) "Secretary" shall mean the secretary for health ***and family*** services;

(3) "An individual with a severe physical disability" shall mean a person who has a severe physical disability as a result of cerebral palsy, poliomyelitis, muscular dystrophy, or spina bifida;

(4) "Educable person" shall mean an individual with a severe physical disability, as defined above, who is determined by the cabinet to be capable of receiving and benefiting from the services and facilities provided by KRS 211.130 to 211.160;

(5) "Funds" shall mean all moneys received by the cabinet from all persons, corporations, associations, organizations, and state or federal government agencies, specifically designated to be used for furnishing facilities and services for educable persons; provided, however, that no moneys appropriated to the cabinet by the General Assembly of this Commonwealth shall be considered to have been appropriated for establishing, providing, or maintaining services or facilities for educable persons, unless the act appropriating such moneys expressly so provides.

Section 341. KRS 211.160 is amended to read as follows:

(1) The secretary for health ***and family*** services may, from the funds available, employ, by contract or otherwise such medical, clinical, technical, and other personnel that he deems necessary to effectuate the purposes of KRS 211.130 to 211.160, and fix and pay their compensation and necessary traveling expenses.

(2) The secretary for health ***and family*** services may, from the funds available, procure, by purchase or lease or otherwise, such property, equipment, services, facilities, and supplies that he deems necessary to effectuate the purposes of KRS 211.130 to 211.160.

(3) The secretary for health ***and family*** services is authorized to accept, on behalf of the Commonwealth of Kentucky, all gifts, donations, contributions, grants, devises, bequests, and conveyances of real and personal property for establishing, providing, and maintaining the services and facilities described in KRS 211.150, subject only to the condition that same shall be devoted to and used for said purposes. All funds received by the secretary for health ***and family*** services shall be deposited in the State Treasury and credited to a trust and agency fund account and expended only for purposes authorized by KRS 211.130 to 211.160.

(4) The secretary for health ***and family*** services may make and issue all necessary rules and regulations to carry out KRS 211.130 to 211.160; provided, however, that no educable person shall be eligible for any benefits hereunder unless he is, and has been continuously for at least twelve (12) months immediately preceding the date of his application therefor, an actual resident of this state.

(5) The secretary for health ***and family*** services may delegate to any division of the cabinet, or to any director thereof, any and all of his authority and duties hereunder.

(6) Upon request of the secretary for health ***and family*** services, approved in writing by the Governor, any cabinet, agency, or commission of the Commonwealth shall furnish without cost to the cabinet such services, facilities, and assistance as are available and, in the judgment of the secretary for health ***and family*** services and the Governor, required, to effectuate the purposes of KRS 211.130 to 211.160 or its administration which is hereby vested in the cabinet.

Section 342. KRS 211.165 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall establish a loan repayment program to repay educational loans for primary health-care professionals who agree to serve in federally designated health professional shortage areas. The program shall:

(1) Apply for federal funds for the program under the Public Health Service Act (42 U.S.C. sec. 254g-1);

(2) Make payments of qualifying educational loans of health professionals agreeing to provide primary health services in federally designated health professional shortage areas;

(3) Assign health professionals only to public and private nonprofit entities;

(4) Enter into contracts with participants with remedies for breach of contract by the health professional; and

(5) Make available nonfederal contributions towards contracts with individual health professionals in an amount not less than one dollar ($1) for each one dollar ($1) of federal funds provided. In meeting this matching fund requirement, the state

shall provide fifty percent (50%) of the state's share from state funds, and the remaining fifty percent (50%) shall be provided from local governments or other community-based resources from the area in which the health professional will be serving.

Section 343. KRS 211.1751 is amended to read as follows:

As used in KRS 211.1751 to 211.1755:

(1) "Agency" means a local health department established pursuant to the provisions of KRS Chapter 212, excluding a health department in a county containing a city of the first class, a consolidated local government, an urban-county health department, or an independent district health department.

(2) "Classification plan" means the system of classes and job descriptions, and the process for the installation and maintenance of the classification plan.

(3) "Compensation plan" means a series of salary ranges to which classes of positions are assigned so that classifications evaluated as approximately equal may be assigned to the same salary range.

(4) "Council" means the Local Health Department Employment Personnel Council created in KRS 211.1752.

(5) "Department" means the Department for Public Health within the Cabinet for Health ***and Family*** Services.

Section 344. KRS 211.1752 is amended to read as follows:

(1) The Local Health Department Employment Personnel Council is hereby created. The council shall be composed of five (5) members appointed by the secretary for health ***and family*** services.

(2) Members of the council shall serve for a term of three (3) years or until successors are appointed, except that for members of the initially appointed council, two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, and one (1) member shall be appointed for three (3) years. A member appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of the term.

(3) The council shall elect a chairperson from its membership. Regular meetings of the council shall be held at least semiannually. Special meetings of the council may be held upon call of the chairperson or the department.

(4) The council shall be attached to the department for administrative purposes.

(5) The council shall:

  (a) Advise the cabinet on administration of the local health department personnel program pursuant to KRS Chapter 212;

  (b) Hear appeals from:

    1. Applicants for positions for which examinations are being or have been conducted;

    2. Eligible applicants on examination registers; and

    3. Classified employees who have been dismissed, demoted, or suspended for cause;

  (c) Hear appeals regarding discrimination in a personnel action involving an agency employee or an applicant for employment;

  (d) Make an annual report to the department and agency; and

  (e) Consider and act upon matters that may be referred to the council by the department.

Section 345. KRS 211.180 is amended to read as follows:

(1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for Health ***and Family*** Services for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and programs relating to all matters of public health, including but not limited to the following matters:

  (a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;

  (b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control and Prevention of the United States Public Health Service. No later than October 1, 2004, the cabinet shall require reporting of cases of human immunodeficiency virus infection by reporting of the name and other relevant data as requested by the Centers for Disease Control and Prevention and as further specified in KRS 214.645. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient;

(c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;

(e) Protection and improvement of the health of expectant mothers, infants, preschool, and school-age children;

(f) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; and

(g) Protection and improvement of the health of the people through better nutrition.

(2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed twenty dollars ($20) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

Section 346. KRS 211.184 is amended to read as follows:

(1) It shall be the duty of the cabinet to enforce the provisions of KRS 211.182, and for that purpose the investigators, inspectors, representatives, and agents of the secretary of the Cabinet for Health ***and Family*** Services and the cabinet shall have the full power and authority of peace officers in this state, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents, or other evidence.

(2) The secretary of the Cabinet for Health ***and Family*** Services may institute, in his own name, proceedings to enjoin and restrain violations of KRS 211.182, regardless of whether the defendant has been convicted of violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith. Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

Section 347. KRS 211.190 is amended to read as follows:

The cabinet shall provide public health services including:

(1) Administrative, consultative, technical, professional, and other services needed to assist local health departments in the effective maintenance and operation of their departments;

(2) Administrative, investigative, and clerical services required by the secretary of the Cabinet for Health ***and Family*** Services, and may upon request provide these services to any other agency of this Commonwealth authorized to control the practice of any other healing art;

(3) Administration of grants, gifts, or contributions from the federal government, or from other sources, for the purpose of carrying out the provisions of Pub. L. No. 725 (79th Congress, 2nd Session, chapter 958), or any other acts for the same or similar purposes;

(4) Central registrations of births, deaths, and other vital records and the furnishing of copies thereof to the general public in the manner prescribed by law;

(5) Statistical services, including the compilation, analysis, and maintenance of statistics on matters related to public health, and may provide these services to organizations and persons interested in public health;

(6) Education of the public concerning all matters relating to health, including the publication and dissemination of health information, and the stimulation of citizen support for the promotion and maintenance of high standards of public health throughout the Commonwealth;

(7) Survey and study of the needs of medical and hospital facilities in the interest of the health of the general public;

(8) Establishment, maintenance, and operation of public health laboratories and such branches thereof as may be needed;

(9) Establishment, maintenance, and operation of training facilities and schools for employees of the cabinet and of local health departments;

(10) Tabulating, duplicating, and other ancillary services as are necessary to the operation of the cabinet, including the keeping of adequate financial, personnel, and other records; and

(11) Establishment, maintenance, monitoring, and enforcement of water fluoridation programs for the protection of dental health.

Section 348. KRS 211.200 is amended to read as follows:

Whenever, in the opinion of the secretary for health ***and family*** services, a public health emergency exists in any county, or whenever any county fails to establish, maintain, and operate a local health department therein meeting the standards prescribed by the cabinet, the cabinet may assign to said county such of its own personnel as may be designated by the secretary for health ***and family*** services. Such personnel so assigned shall have the full power and authority of local health department employees in addition to their power and authority as representatives of the cabinet. Whenever such assignment results by reason of the lack of a local health department or of a local health department meeting the standards prescribed by the cabinet, any funds appropriated or allocated to the local health department by either the Commonwealth or the federal government may be used to reimburse the cabinet.

Section 349. KRS 211.215 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall operate a program for the decontamination of bird roosts.

(2) Prior to the decontamination of a bird roost, the cabinet shall, at a minimum, make the following determinations:

(a) The bird roost has tested positive to the presence of histoplasma capsulatum;

(b) The bird roost presents a potential health hazard;

(c) The landowner has requested in writing to the cabinet that the cabinet have the land area associated with the bird roost decontaminated; and

(d) That there are sufficient state funds to pay for the decontamination of the area, including any assistance which may be given by local governmental units, volunteer fire departments, or other organizations.

(3) If one (1) or more of the determinations made by the cabinet in subsection (2) of this section is made in the negative, the bird roost shall not be decontaminated by the cabinet.

(4) The cabinet shall ensure that the decontamination of a bird roost is conducted in a safe manner.

(5) The cabinet may secure the services of local governmental units, volunteer fire departments, or other organizations as long as they are qualified to conduct the decontamination in a safe manner.

(6) The cabinet may issue administrative regulations to implement this section.

Section 350. KRS 211.220 is amended to read as follows:

For the purposes of enforcing the public health laws of the Commonwealth, investigators, inspectors, officers, representatives, and agents of the cabinet may enter upon any premises when necessary for the purpose of making inspections and investigations, and may view evidence and interrogate persons, to the extent required in the performance of their duties and responsibilities. The secretary of the Cabinet for Health ***and Family*** Services may issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the cabinet, and such process shall extend to all parts of the Commonwealth. Service of process may be made by certified mail, return receipt requested, or in the manner prescribed by the Rules of Civil Procedure. Nothing in this section shall be construed to authorize the cabinet to regulate the practice of any healing art where the licensure, regulation, and control of same has been conferred by statute upon some other agency of the state.

Section 351. KRS 211.230 is amended to read as follows:

In case of a failure on the part of any person, firm, or corporation to comply with any lawful order of the Cabinet for Health ***and Family*** Services, or with process or in case of the refusal of any witness to testify concerning any matter on which he may be lawfully interrogated, the Circuit Court, or a judge thereof, having jurisdiction may, on application of the Cabinet for Health ***and Family*** Services or the secretary of the Cabinet for Health ***and Family*** Services, compel obedience by proceedings as in contempt cases.

Section 352. KRS 211.285 is amended to read as follows:

(1) There is hereby created the "Malt Beverage Educational Fund" which shall provide moneys on a matching basis for educational information and materials that deter or eliminate underage drinking. The fund shall consist of moneys generated from one percent (1%) of the excise tax collected from the sale and distribution of malt beverages under KRS 243.720 and one percent (1%) of the wholesale tax collected from distributors of malt beverages under KRS 243.884.

(2) The "Malt Beverage Educational Fund" shall be established in the State Treasury as a trust and revolving account under KRS 45.253. Moneys in the account shall be distributed by the State Treasurer to the Malt Beverage Educational Corporation, a nonprofit organization that is organized under the laws of this state, upon the authorization of the secretary of the Cabinet for Health ***and Family*** Services. The moneys shall be awarded to the corporation solely to fund educational programs to deter or eliminate underage drinking.

(3) The secretary of the Cabinet for Health ***and Family*** Services shall authorize that moneys from the fund be disbursed to the corporation upon the secretary's receipt of a certification from the corporation showing the moneys the corporation has received from malt beverage distributors and other private sources since the last certification. The moneys disbursed from

the fund shall be equal to the contributions that the corporation has received from its members and other private sources during that period. The moneys in the fund shall be disbursed in accordance with a schedule established by the secretary, and shall be disbursed until the moneys in the fund are exhausted or until the moneys in the fund lapse in accordance with subsection (4) of this section, whichever comes first.

(4) Moneys that are credited to the fund and not issued to the corporation shall lapse at the end of the fiscal year and shall be returned to the general fund.

(5) As a condition of receiving the governmental funds, the corporation's board of directors shall include the following among its directors:

(a) The Governor or his or her designee;

(b) The Attorney General or his or her designee;

(c) The President of the Senate or his or her designee;

(d) The Speaker of the House or his or her designee;

(e) The secretary of the Cabinet for Health ***and Family*** Services or his or her designee; and

(f) The commissioner of the Department of Alcoholic Beverage Control or his or her designee.

(6) All expenditures of moneys from the fund shall be approved by a majority of those persons set out in subsection (5)(a) to (f) of this section. If the moneys from the fund are not expended in their entirety, any moneys that remain unused by the corporation at the end of the fiscal year shall be returned to the general fund.

(7) Any moneys from the fund that are not expended shall be returned to the general fund upon the dissolution of the corporation.

(8) Any high school in the Commonwealth of Kentucky that was registered with the Department of Education as of July 1, 1997, may make an application to the Malt Beverage Education Corporation by February 28 of each year and shall be granted a minimum of five hundred dollars ($500) annually from the funds contributed by the Malt Beverage Educational Fund for the single purpose of supporting "Project Graduation" events.

Section 353. KRS 211.345 is amended to read as follows:

The Department for Public Health in the Cabinet for Health ***and Family*** Services shall establish a program for testing, upon request of the owner or user of the water supply, private water supplies for bacterial and chemical contamination, and for educating the public about proper siting and drilling of wells and treatment of wells and other private water supplies. The program shall consist of the following elements:

(1) The development of policies, in conjunction with the Natural Resources and Environmental Protection Cabinet, for testing private water supplies and using relevant information in a groundwater database;

(2) The development of a data collection system, in conjunction with the Natural Resources and Environmental Protection Cabinet, which shall contain the results of water sample tests and information on well location sufficient to locate the wells on an official map;

(3) The development of a private water supply user's manual to be made available to the public; and

(4) The development of a technical assistance program for private water supply users.

Section 354. KRS 211.355 is amended to read as follows:

(1) Any local board of health authorized to serve as agent of the Cabinet for Health ***and Family*** Services for the issuance of permits for on-site sewage disposal systems may set a schedule of fees reasonably related to the cost of administering programs including:

(a) Inspections incidental to construction, installation, and alteration of on-site sewage disposal systems; and

(b) Inspections incidental to maintenance and operation of on-site sewage disposal systems.

(2) Such fees shall be designed to fully cover the cost of the services but shall not exceed the cost of the services performed. Fees payable to the board shall be used by the board only for the administration of said program.

(3) Nothing in this section shall authorize or allow the cabinet to inspect any on-site sewage disposal system constructed prior to July 15, 1986, unless such inspection is deemed necessary due to receipt of a complaint by the cabinet or the local health department. In such an instance, the cabinet shall document or shall require the local health department to document the source and nature of such complaint.

Section 355. KRS 211.357 is amended to read as follows:

(1) The cabinet shall establish a program to certify persons as installers of on-site sewage disposal systems. A master plumber licensed pursuant to KRS Chapter 318 or a person who provides written verification from the local health department in the county in which the work was completed that he installed five (5) lateral fields and septic tank systems prior to July 13, 1984, and that these installations had been inspected by a certified inspector and passed inspection, shall be certified automatically.

(2) The cabinet shall establish as a part of the certification program referenced in subsection (1) of this section a means of issuing a probationary certification for installers of on-site sewage disposal systems. This probationary certification shall

automatically be converted to a full certification at the time that the holder of the probationary certificate has installed five (5) lateral fields and septic tank systems and has provided written verification from the local health department in the county in which the work was completed that these installations have been inspected by a certified inspector and passed the inspection. The cabinet shall issue a full certificate to the holder of the probationary certificate no later than sixty (60) days after receipt of verification. In order to be issued a probationary certification, eligible persons shall certify in writing that they will make installations in accordance with requirements set forth by the Cabinet for Health ***and Family*** Services.

(3) Persons certified as installers, except master plumbers licensed pursuant to KRS Chapter 318, shall pay a reasonable fee of not more than twenty-five dollars ($25) for certification.

(4) The cabinet may revoke or suspend any certification issued pursuant to this section upon proof that the certified person has:

(a) Knowingly violated the provisions of this chapter or the regulations of the cabinet;

(b) Practiced fraud or deception in applying for or obtaining a certificate;

(c) Is incompetent to install on-site sewage disposal systems;

(d) Permitted the certification to be used directly or indirectly by another to install on-site sewage disposal systems; or

(e) Is guilty of other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

(5) Upon appeal of any decision to revoke or suspend a certification, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(6) Nothing in this section shall be construed to condone the installation of on-site sewage disposal systems contrary to specifications for these systems established by the cabinet.

Section 356. KRS 211.365 is amended to read as follows:

In order to provide for the issuance of plumbing installation permits pursuant to KRS Chapter 318 and on-site sewage disposal permits pursuant to this chapter in a manner convenient to the public, the Cabinet for Health ***and Family*** Services shall provide office space in the local departments of health for the district plumbing inspector without fee or charge to the Department of Housing, Buildings and Construction.

Section 357. KRS 211.420 is amended to read as follows:

(1) There is hereby established within the Cabinet for Health ***and Family*** Services, a rural Kentucky dental scholarship fund.

(2) There shall be available each fiscal year to applicants selected by the board with the approval of the Dental Health Program of the Cabinet for Health ***and Family*** Services, no less than ten (10) scholarships for the study of dentistry leading to the attainment of the degree of Doctor of Dental Surgery, or some equivalent degree.

(3) The amount of each scholarship shall be a reasonable sum determined by the board, but shall not be less than one thousand five hundred dollars ($1,500) per annum.

(4) In granting scholarships the board shall make a careful and full investigation of the ability, character, and qualifications of each applicant, and may personally examine each applicant. The board shall, whenever possible, grant financial assistance to the applicants with the greatest financial need, provided such persons are found to possess such qualities as give reasonable assurance of their successfully completing the course of study made possible by the scholarship.

Section 358. KRS 211.430 is amended to read as follows:

(1) To be eligible for a scholarship made available under KRS 211.405 to 211.460, an applicant must:

(a) Have been a resident of this Commonwealth for not less than five (5) years immediately preceding the date of application;

(b) Be acceptable for enrollment in a dental school accredited by the Council on Dental Education of the American Dental Association, and approved by the board; and

(c) Furnish satisfactory evidence to the board that he does not have sufficient financial resources to enable him to study dentistry without assistance.

(2) Before a scholarship is granted, the applicant shall contract in writing with the board, that he will, within six (6) months from the date he completes his term of study, engage in the practice of dentistry in a locality or localities within this Commonwealth to be designated by the Dental Health Program of the Cabinet for Health ***and Family*** Services, at the rate of one (1) year for each annual scholarship received, or proportional time for partial scholarships.

Section 359. KRS 211.470 is amended to read as follows:

As used in KRS 211.470 to 211.478:

(1) "Board" means the Traumatic Brain Injury Trust Fund Board created pursuant to KRS 211.472;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(3) "Traumatic brain injury" means a partial or total disability caused by injury to the central nervous system from physical trauma, damage to the central nervous system from anoxia, hypoxic episodes, allergic conditions, toxic substances, or other acute medical clinical incidents resulting in impaired cognitive abilities or impaired physical functioning. "Traumatic brain

injury" does not include:

(a) Strokes that can be treated in nursing facilities providing routine rehabilitation services;

(b) Spinal cord injuries for which there are no known or obvious injuries to the intracranial central nervous system;

(c) Progressive dementias and other mentally impairing conditions;

(d) Depression and psychiatric disorders in which there is no known or obvious central nervous system damage;

(e) Mental retardation and birth defect related disorders of long standing nature; or

(f) Neurological degenerative, metabolic, and other medical conditions of a chronic, degenerative nature.

(4) "Trust fund" means the traumatic brain injury trust fund created pursuant to KRS 211.476.

Section 360. KRS 211.472 is amended to read as follows:

(1) The Kentucky Traumatic Brain Injury Trust Fund Board is hereby created for the purpose of administering the trust fund. The board shall be composed of nine (9) members including the secretary of the Cabinet for Health ***and Family*** Services or the secretary's designee, the executive director of the Brain Injury Association of Kentucky or the executive director's designee, the state medical epidemiologist, and the following members, to be appointed by the Governor:

(a) One (1) member shall be a neurosurgeon;

(b) One (1) member shall be a neuropsychologist or psychiatrist;

(c) One (1) member shall be a rehabilitation specialist;

(d) One (1) member shall be a social worker experienced in working with brain-injured individuals; and

(e) Two (2) members shall be family members of or individuals with a brain injury.

(2) Board members shall not be compensated for serving, but shall be reimbursed for ordinary travel expenses, including meals and lodging incurred in the performance of their duties.

(3) The terms of appointed board members shall be four (4) years, except that the terms of initial members shall be staggered to end as follows:

(a) Two (2) on June 30, 2000;

(b) Two (2) on June 30, 2001; and

(c) Two (2) on June 30, 2002.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves two (2) consecutive four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(5) A majority of the full authorized membership shall constitute a quorum.

(6) The board shall elect, by a majority vote, a director who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The director shall be elected or reelected for each calendar year.

(7) The board may establish any organizational structure it determines is necessary to accomplish its functions and duties, including the hiring of any necessary support personnel. The administrative costs of the board shall be limited to three percent (3%) of the proceeds from the trust fund.

(8) Meetings of the board shall be held at least twice a year but may be held more frequently, as deemed necessary, subject to call by the director or by the request of a majority of the board members.

(9) The board shall be attached to the cabinet for administrative purposes.

Section 361. KRS 211.500 is amended to read as follows:

(1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for the purpose of administering the spinal cord and head injury research trust fund created pursuant to KRS 211.504. The board shall be composed of seven (7) members appointed by the Governor as follows:

(a) Two (2) members representing the University of Kentucky College of Medicine;

(b) Two (2) members representing the University of Louisville School of Medicine;

(c) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury;

(d) One (1) member representing the Kentucky Medical Association; and

(e) One (1) at-large member.

(2) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of KRS 211.500 to 211.504.

(3) The terms of board members shall be four (4) years, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms ending on June 30, 1999, shall serve until January 31, 2000; two (2) members

appointed to fill the terms expiring on June 30, 2000, shall serve until January 31, 2001; two (2) members appointed to fill the terms expiring on June 30, 2001, shall serve until January 31, 2002; and one (1) member appointed to fill the term expiring June 30, 2002, shall serve until January 31, 2003; and subsequent appointments shall be for four (4) year terms ending on January 31.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies.

(5) A majority of the full authorized membership of the board shall constitute a quorum.

(6) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.

(7) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to spinal cord and head injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of KRS 211.500 to 211.504.

(8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(9) The board shall be attached to the Cabinet for Health ***and Family*** Services for administrative purposes.

Section 362. KRS 211.600 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall designate one (1) nonprofit corporation in each area development district to serve as the regional rape crisis center. The designated agency shall serve as the regional planning authority for crisis and advocacy services for victims of sexual assault in the district in which the center is located.

(2) The rape crisis center shall retain the designation unless it has been rescinded by the cabinet based on an annual review of the center's performance or the annual plan and budget submitted by the center to the cabinet for funding for the next fiscal year.

(3) A rape crisis center designated by the cabinet shall provide services that include, but are not limited to:
   (a) Crisis counseling;
   (b) Mental health and related support services;
   (c) Advocacy;
   (d) Consultation;
   (e) Public education; and
   (f) The provision of training programs for professionals.

Section 363. KRS 211.602 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 210.410, the secretary of the Cabinet for Health ***and Family*** Services or any other state or local government entity is hereby authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional rape crisis centers.

(2) To be eligible for grants from any state government entity, a rape crisis center shall provide the services listed in KRS 211.600(3) and shall operate in a manner consistent with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

Section 364. KRS 211.640 is amended to read as follows:

The duties of the Cabinet for Health ***and Family*** Services shall be to:

(1) Promote and develop effective programs of education, health, recreation, welfare, public safety, and correctional services for children and youth;

(2) Conduct continuing programs of public information to educate the public as to problems of children and youth;

(3) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of children and youth;

(4) Cooperate with the federal government and with the governments of other states and cities in programs relating to children and youth;

(5) Conduct programs of research as to the needs of children and youth in order to facilitate more comprehensive and better-related social planning and action.

Section 365. KRS 211.645 is amended to read as follows:

As used in KRS 211.647 and 216.2970, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(2) "Commission" means the Commission for Children with Special Health Care Needs;

(3) "Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(4) "Auditory screening report" means a written evaluation of an auditory screening as required under KRS 216.2970;

(5) "Infant at high risk of hearing loss" means a child at birth who is at a higher risk than normal of being hard of hearing due to one (1) or more of the following factors present at birth:

(a) Family history of a congenital hearing loss;

(b) Rubella or virus during pregnancy;

(c) Congenital ear, nose, or throat anomalies;

(d) Below-normal birth weight;

(e) Abnormal level of jaundice;

(f) Anoxia or apnea;

(g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate, and respiration; or

(h) An auditory screening indicating a hearing loss.

Section 366. KRS 211.647 is amended to read as follows:

(1) The commission, on receipt of an auditory screening report of an infant from a hospital or alternative birthing center in accordance with KRS 216.2970 shall review each auditory screening report that indicates a potential hearing loss. The commission shall contact the parents to schedule follow-up evaluations or make a referral for evaluations within three (3) business days.

(2) The commission shall secure information missing from birth certificates or hospital referral reports which is relevant to identifying infants with a hearing loss.

(3) If the hearing evaluation performed by the commission contains evidence of a hearing loss, within forty-eight (48) hours the commission shall:

(a) Contact the attending physician and parents; and

(b) Make a referral to the Kentucky Early Intervention System point of entry in the service area of the child's residence for services under KRS 200.664.

(4) The commission shall forward a report of a hearing evaluation that indicates a hearing loss, with no information that personally identifies the child, to:

(a) The Kentucky Commission on the Deaf and Hard of Hearing for census purposes; and

(b) The Kentucky Birth Surveillance Registry for information purposes.

(5) Cumulative demographic data of identified infants with a hearing loss shall be made available to agencies and organizations including, but not limited to, the Cabinet for Health ***and Family*** Services and the Early Childhood Development Authority, requesting the information for planning purposes.

Section 367. KRS 211.651 is amended to read as follows:

As used in KRS 211.651 to 211.670, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(2) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services;

(3) "Department" means the Department for Public Health; and

(4) "Designee" means a local health department, mental health/mental retardation board, or other governmental or private agency designated by the Department for Public Health.

Section 368. KRS 211.690 is amended to read as follows:

(1) There is established within the Cabinet for Health ***and Family*** Services the Health Access Nurturing Development Services (HANDS) program as a voluntary statewide home visitation program, for the purpose of providing assistance to at-risk parents during the prenatal period and until the child's third birthday. The HANDS program recognizes that parents are the primary decision-makers for their children. The goals of the HANDS program are to:

(a) Facilitate safe and healthy delivery of babies;

(b) Provide information about optimal child growth and human development;

(c) Facilitate the safety and health of homes; and

(d) Encourage greater self-sufficiency of families.

(2) The cabinet shall administer the HANDS program in cooperation with the Cabinet for ***Health and Family Services***[~~Families and Children~~] and the local public health departments. The voluntary home visitation program may supplement, but shall not duplicate, any existing program that provides assistance to parents of young children.

(3) Participants in the HANDS program shall express informed consent to participate by written agreement on a form promulgated by the Cabinet for Health ***and Family*** Services.

Section 369. KRS 211.736 is amended to read as follows:

(1) The Kentucky Diabetes Research Board is created for the purpose of administering the diabetes research trust fund. The board shall be composed of the secretary of the Cabinet for Health ***and Family*** Services or the secretary's designee and seven (7) members appointed by the Governor as follows:

(a) Two (2) members representing the University of Kentucky College of Medicine;

(b) Two (2) members representing the University of Louisville School of Medicine;

(c) One (1) member who has diabetes or who has a family member with diabetes;

(d) One (1) member who is a physician with experience with research or treatment of diabetes; and

(e) One (1) at-large member who has a health care policy perspective on diabetes issues as a patient, health care provider, consultant, or in business.

(2) The term of each appointed board member shall be four (4) years. A board member shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of his or her duties.

(3) At the end of a term, a member shall continue to serve until a successor is appointed. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed. A member who serves two (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(4) A simple majority of the full membership of the board shall constitute a quorum.

(5) The board shall elect, by a majority vote, a chairperson who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairperson shall be elected or reelected for each calendar year.

(6) The board shall meet at least two (2) times each year but may meet more frequently, subject to call by the chairperson or by request of a majority of the board members. Each board meeting shall include but not be limited to programs relating to diabetes, research progress reports, authorization of projects, and financial plans.

(7) No member of the board shall be subject to any personal liability or personal accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(8) The board shall be attached to the Cabinet for Health ***and Family*** Services for administrative purposes. The Cabinet for Health ***and Family*** Services shall provide sufficient staff for the proper administration of the board.

(9) The Cabinet for Health ***and Family*** Services shall promulgate any necessary administrative regulations in accordance with KRS Chapter 13A to implement the provisions of KRS 211.735 to 211.739.

Section 370. KRS 211.738 is amended to read as follows:

(1) A proposed research project shall be submitted to the board on an application developed by the Cabinet for Health ***and Family*** Services in consultation with the board. The submission deadline for the application shall be September 30 of each year.

(2) The board shall review the project proposal for scientific merit and adherence to the research priority established in this section. After reviewing the project proposal's scientific merit and adherence to the research priority, the board shall determine whether a project proposal shall or shall not be funded. An applicant shall be notified of the board's decision on the application no later than December 31 of each year.

(3) A project proposal shall be reviewed for scientific merit as follows:

(a) Adequacy of prior research and theory in providing a basis for the research;

(b) Adequacy of methods;

(c) Adequacy of environment, facilities, equipment, available equipment, and research atmosphere;

(d) Qualifications and productivity of the PI and key staff;

(e) Time commitments of the PI and key staff;

(f) Availability of subjects or patients where relevant;

(g) Adequacy of procedures for assessing the effect of interventions on recovery; and

(h) Other factors that affect the potential of the applicants to successfully address the research objectives.

(4) A project shall be reviewed by the board for adherence to research priorities relating to in vivo and in vitro studies on naturally occurring phenomena that may:

(a) Predict the development of diabetic vascular, neuronal, or musculo-skeletal complications;

(b) Define the response of diabetic vascular, neuronal, or musculo-skeletal complications to existing therapies; or

(c) Reverse diabetic vascular, neuronal, or musculo-skeletal complications.

Section 371. KRS 211.760 is amended to read as follows:

(1) As used in this section:

(a) "Body piercing" means the act of penetrating the skin or body part of a human being to make a hole, mark, or scar;

(b) "Facility" means the place of business where tattooing, body piercing, or both are conducted; and

(c) "Tattooing" means the act of producing scars on a human being or the act of inserting pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce indelible marks or figures visible through the skin, including the application of permanent makeup.

(2) No person shall engage in, offer to engage in, or carry on any business of tattooing, body piercing, or both of humans by nonmedical personnel for remuneration within the Commonwealth of Kentucky without first registering with the local health department in the district or county in which the person is to perform tattooing, body piercing, or both. Registrations shall be valid for one (1) year. Applicants for registration shall pay a fee of twenty dollars ($20) to the local or district health department.

(3) The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations relating to:

(a) Health and cleanliness of places of business in which tattooing, body piercing, or both are conducted;

(b) Sterilization of tattooing and body piercing apparatus;

(c) Procedures to prevent the spread of disease or infection during or relating to tattooing and body piercing procedures;

(d) Procedures to prevent any tattooing or body piercing of minors without the written notarized consent of a custodial parent or legal guardian; and

(e) Such other administrative regulations as may be necessary to protect public health or properly administer the program requirements of this section.

(4) Representatives of the cabinet or local or district health departments may visit a facility at any time during business hours to ensure compliance with the requirements of this section. Representatives of local or district health departments shall visit each registered facility in their county or district not less than twice each year.

(5) Any administrative hearing conducted under this section shall be conducted in accordance with KRS Chapter 13B.

Section 372. KRS 211.820 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall have the following functions, powers, and duties:

(a) To conduct a survey of all of the existing facilities within the state having to do with the diagnosis, evaluation, and treatment of patients with kidney disease and to prepare and submit its findings and a specific program of action;

(b) To evaluate the need for the creation of local or regional facilities and for the establishing of a major kidney research center;

(c) To develop and administer scientific investigations into the cause, prevention, methods of treatment, and cure of renal disease, including research into transplantation of kidneys;

(d) To develop techniques for an effective method of mass testing for the detection of kidney diseases and urinary tract infections;

(e) To develop more efficient methods of medical care for kidney disease and to develop more effective and economical kidney dialysis equipment;

(f) To survey and evaluate the need for a program of professional education and training for medical students, physicians, and nurses in the care and treatment of kidney diseases;

(g) To report to the Governor and to a committee of the legislature annually on or before February 1 its findings, a progress report, its activities and the state's total needs in this area; and

(h) To enter into such contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities, and other units of government as may be deemed necessary and advisable to carry out the general intent and purposes of this section. Such contracts may provide for payment by the state, within the limit of funds available, for materials, equipment, or services.

(2) The secretary may adopt rules and regulations necessary to effect the purposes of this section.

Section 373. KRS 211.842 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services is the radiation control agency of the State of Kentucky.

(2) The Cabinet for Health ***and Family*** Services shall issue licenses pertaining to radioactive materials and require registration of other sources of ionizing radiation.

(3) The Cabinet for Health ***and Family*** Services shall develop and conduct programs for evaluation and control of hazards associated with the use of sources of ionizing, nonionizing, and electronic product radiation.

(4) The cabinet or its duly authorized representative may enter at a reasonable time upon the property of a licensee, registrant, or other person where sources of ionizing, nonionizing, or electronic product radiation are reasonably believed to be located for the purpose of determining whether or not such licensee, registrant, or other person is in compliance with or in

violation of the provisions of KRS 211.842 to 211.852 and administrative regulations promulgated hereunder, and the owner, occupant, or person in charge of the property shall permit entry and inspection; provided, that entry into areas under the jurisdiction of an agency of the federal government or its duly designated representative shall be only upon permission of the agency or its representative.

Section 374. KRS 211.843 is amended to read as follows:

The secretary for health ***and family*** services may, by administrative regulation, require licensees of radioactive materials to provide an adequate surety or other financial arrangement, in such amount as the secretary deems reasonably appropriate to cover potential cleanup costs in the event of abandonment, insolvency, or other inability of the licensee to meet the requirements of the secretary regarding a radioactive material accident or other public health hazard created by the presence of radioactive material at a site occupied by the licensee or formerly under its possession, ownership, or control. Acceptable sureties include bonds issued by fidelity or surety companies authorized or eligible to do business in Kentucky, cash deposits, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow accounts or such other types of arrangements, but shall not include any arrangement which essentially constitutes self-insurance. The secretary shall be the obligee of the surety and the proceeds of the surety shall be used by the secretary for defraying the cost of cleaning up and decontaminating the area of property involved. Failure to comply with any regulation promulgated to carry out this section by any licensee shall result in automatic revocation of such license by operation by law.

Section 375. KRS 211.844 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall provide by administrative regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. The cabinet may prescribe specific conditions or means for the disposal and volume and source reduction of radioactive materials including radioactive waste. These administrative regulations shall include but need not be limited to specification of the form of applications for registration and licenses, the qualifications therefor, grounds for revocation, appeal pursuant to KRS Chapter 13B, and other matters necessary to carry out the intent of KRS 211.842 to 211.852 and to protect the public from unnecessary radiation exposure.

(2) All administrative regulations adopted prior to June 17, 1978, by the Cabinet for Human Resources and on file with the Legislative Research Commission shall continue in full force and effect unless subsequently amended or repealed pursuant to the provisions of KRS 211.842 to 211.852.

Section 376. KRS 211.846 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall monitor radioactive waste material sites in Kentucky for the protection of the public health, safety, and welfare. The Finance and Administration Cabinet and the Cabinet for Health ***and Family*** Services shall cooperate and coordinate their activities in the leasing, regulation, monitoring, and control of radioactive waste material burial sites.

Section 377. KRS 211.848 is amended to read as follows:

(1) The secretary of the Cabinet for Health ***and Family*** Services shall fix a reasonable schedule of fees and charges, by regulation, to be paid by applicants for registration of radiation- producing machines and radioactive material licenses and for renewal of the certificates and licenses. The secretary shall also prescribe, by regulation, a reasonable schedule of fees to be paid by registrants and licensees for inspections and environmental surveillance activities conducted by the cabinet.

(2) All fees and charges collected by the Cabinet for Health ***and Family*** Services under the provisions of KRS 211.842 to 211.852 or the administrative regulations adopted pursuant to KRS 211.844 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for Health ***and Family*** Services in carrying out the provisions of KRS 211.842 to 211.852.

Section 378. KRS 211.850 is amended to read as follows:

Whenever, in the opinion of the Attorney General or the secretary of the Cabinet for Health ***and Family*** Services, the person is violating or is about to violate any of the provisions of KRS 211.842 to 211.852, or any regulation lawfully promulgated pursuant thereto, the Attorney General or the secretary may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the violative act, and upon a showing that such person has engaged or is about to engage in such activity, a restraining order or permanent or temporary injunction, or any other appropriate order shall be granted.

Section 379. KRS 211.852 is amended to read as follows:

(1) The location of a nuclear waste disposal facility in the Commonwealth of Kentucky shall require prior approval by a majority of the members of the Kentucky House of Representatives, a majority of the members of the Kentucky Senate, and the approval of the Governor of Kentucky.

(2) Before an application to locate a nuclear waste disposal facility in Kentucky can be submitted for approval to the Kentucky General Assembly, it must first receive the approval of the secretary of the Cabinet for Health ***and Family*** Services and the secretary of the Natural Resources and Environmental Protection Cabinet. It shall be the responsibility of the Cabinet for Health ***and Family*** Services and the Natural Resources and Environmental Protection Cabinet to ensure that a comprehensive environmental impact statement is submitted and that public hearings are held in the county in which it is proposed to locate a nuclear waste disposal facility.

(3) This section shall not apply to nuclear waste disposal facilities in existence prior to June 17, 1978.

Section 380. KRS 211.854 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services may monitor the radiation in discharges into rivers along the Kentucky border from all nuclear power plants located on either side of such rivers for the protection of the health, safety, and welfare of the citizens of the Commonwealth. Monitoring may be conducted on a continuous basis.

(2) If there is evidence that the effluent standards applicable to any nuclear power facility are not being properly and expeditiously enforced, the Attorney General shall report such violations to the United States attorney for appropriate action or bring an action of mandamus against the appropriate enforcement agency.

Section 381. KRS 211.855 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall be the regulatory agency for the control of radon in the Commonwealth of Kentucky.

(2) The Cabinet for Health ***and Family*** Services shall develop and conduct programs for evaluation and control of activities related to radon including laboratory analyses, mitigation, and measurements.

Section 382. KRS 211.856 is amended to read as follows:

(1) No person shall engage in radon analysis, mitigation, or testing activities without obtaining certification from the Cabinet for Health ***and Family*** Services. The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations pursuant to KRS Chapter 13A, which shall include, but not be limited to, specifications of the form of applications for certification, the qualifications for certification, grounds for revocation of certification, and other matters as may be necessary to protect the public from unnecessary radiation exposure from radon.

(2) The secretary of health ***and family*** services shall fix a reasonable schedule of fees, by administrative regulation promulgated pursuant to KRS Chapter 13A, to be paid by applicants for certification and renewal of radon mitigators, testers, and laboratories. The secretary shall also prescribe, by administrative regulation promulgated pursuant to KRS Chapter 13A, a reasonable schedule of fees to be paid by certified radon mitigators, testers, and laboratories for inspections and environmental surveillance activities conducted by the Cabinet for Health ***and Family*** Services.

(3) All fees and fines collected by the Cabinet for Health ***and Family*** Services under the provisions of KRS 211.855 to 211.858 or the administrative regulations promulgated pursuant to KRS 211.855 to 211.858 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for Health ***and Family*** Services in carrying out the provisions of KRS 211.855 to 211.858.

(4) State and local governmental agencies shall be exempt from the payment of fees but shall otherwise comply with KRS 211.855 to 211.858.

Section 383. KRS 211.857 is amended to read as follows:

The Cabinet for Health ***and Family*** Services may institute proceedings in Circuit Court for an order enjoining a person from engaging or attempting to engage in activities which violate the provisions of KRS 211.855 to 211.858 or administrative regulations promulgated pursuant to KRS 211.855 to 211.858. Upon a showing that a person has engaged in or is about to engage in this activity, a restraining order, permanent injunction, temporary injunction, or other appropriate order shall be granted.

Section 384. KRS 211.858 is amended to read as follows:

Any person who violates KRS 211.855 to 211.858 or any administrative regulation promulgated pursuant to KRS 211.855 to 211.858 or who fails to comply with an order of the Cabinet for Health ***and Family*** Services issued pursuant to KRS 211.855 to 211.858 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each day the violation or noncompliance continues.

Section 385. KRS 211.862 is amended to read as follows:

As used in KRS 211.861 to 211.869, unless the compact requires otherwise:

(1) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(3) "Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact;

(4) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose;

(5) "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on, or appurtenant to, the land or site, that is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste;

(6) "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e(2) of the Federal Atomic Energy Act. This definition shall apply regardless of any declaration by the federal government or any state that any radioactive material is exempt from any regulatory control;

(7) "Management plan" means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region;

(8) "Naturally-occurring radioactive material" (NORM) means naturally occurring materials not regulated under the Atomic

Energy Act of 1954, as amended, whose radionuclide concentrations have been increased by or as a result of human practices. Naturally occurring radioactive material does not include the natural radioactivity of rocks or soils, or background radiation, but instead refers to materials whose radioactivity is technologically enhanced by controllable practices (or by past human practices);

(9) "Person" means any individual, corporation, business enterprise, or other legal entity, public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity;

(10) "Region" means the geographical area of the state of Illinois and the Commonwealth of Kentucky;

(11) "Regional facility" means any facility as defined in this section that is located in Kentucky, and established by Kentucky pursuant to designation of Kentucky as a host state by the commission;

(12) "Storage" means the temporary holding of radioactive material for treatment or disposal; and

(13) "Treatment" means any method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics of the radioactive material in order to render the radioactive material safe for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume.

Section 386. KRS 211.870 is amended to read as follows:

The Cabinet for Health ***and Family*** Services may promulgate administrative regulations relating to operators of sources of radiation other than licensed practitioners of the healing arts. The administrative regulations may include, but need not be limited to, the classification and certification of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate radiation sources; issuance, renewal, and revocation of certificates; appeal of certificate denials or revocations pursuant to KRS Chapter 13B; and other standards or regulations appropriate for protection of health and safety.

Section 387. KRS 211.890 is amended to read as follows:

The secretary of the Cabinet for Health ***and Family*** Services is authorized to fix a reasonable schedule of fees and charges, by regulation, to be paid by applicants for examinations, certificates, and renewal certificates. All such fees and charges and other moneys collected by the Cabinet for Health ***and Family*** Services under the provisions of KRS 211.870 and 211.890 or the rules and regulations adopted under KRS 211.870 and 211.890 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for Health ***and Family*** Services in carrying out the provisions of KRS 211.870 and 211.890.

Section 388. KRS 211.894 is amended to read as follows:

(1) The Governor, the secretary of the Cabinet for Health ***and Family*** Services, the secretary of the Natural Resources and Environmental Protection Cabinet or any other state agency shall not enter into a contract or an agreement of any kind with the federal government relinquishing ownership of a low-level nuclear waste disposal site located in the Commonwealth without prior approval of a majority of the members of the Kentucky House of Representatives and a majority of the members of the Kentucky Senate.

(2) It shall be the policy of the Commonwealth to retain final authority for approving or disapproving the locating, opening, closing, or reopening of a nuclear waste disposal site or facility within its borders.

(3) The Governor or appropriate state agencies may enter into contracts and agreements with the federal government relating to nuclear waste disposal sites located in the Commonwealth on July 15, 1980, that do not violate the provisions of subsections (1) and (2) of this section.

Section 389. KRS 211.896 is amended to read as follows:

(1) Any nuclear waste disposal facility, licensed and regulated by the Kentucky Cabinet for Health ***and Family*** Services, which is closed either because there is doubt as to the public safety of the site, the integrity of the site, the economic feasibility of financing perpetual care and maintenance and decommissioning of the site, or compliance with cabinet regulations, shall not reopen without:

  (a) A finding of fact by the secretary of the Cabinet for Health ***and Family*** Services and the secretary of the Natural Resources and Environmental Protection Cabinet that all reasons for site closure have been addressed and resolved such that there is no longer any doubt as to the public safety or integrity of the site or the ability to adequately finance the perpetual care and maintenance and decommissioning of the site or the compliance of the site with cabinet regulations; and

  (b) A public hearing and the taking of public comment on such findings of fact; and

  (c) Approval of a majority of the members of the House of Representatives and a majority of the members of the Senate; and

  (d) Approval of the Governor.

(2) The Cabinet for Health ***and Family*** Services shall be responsible for organizing the public hearings, which shall be held in the county in which the nuclear waste disposal facility is located and shall be at a time and place convenient for public participation. Adequate notification shall be given to the public of the intention to reopen a nuclear waste disposal site and the cabinet shall make available to the public the data and information upon which its decision to recommend approval of reopening of the site is based.

Section 390. KRS 211.900 is amended to read as follows:

As used in KRS 211.900 to 211.905 and KRS 211.994, unless the context otherwise requires:

(1) "Cabinet" shall mean the Cabinet for Health ***and Family*** Services;

(2) "Secretary" shall mean the secretary for health ***and family*** services or his authorized representative;

(3) "Lead-based substance" shall mean any substance containing more than six one-hundredths of one percent (0.06%) lead by weight of nonvolatile content as provided in KRS 217.801;

(4) "Dwelling" shall mean any structure, all or a part of which is designed for human habitation;

(5) "Dwelling unit" shall mean any room or group of rooms or other interior areas of a dwelling designed or used for human habitation;

(6) "Owner" shall mean any person who, alone, jointly, or severally with others, has legal title to, charge, care, or control of any dwelling or dwelling unit as owner, agent of the owner, or as executor, administrator, trustee, conservator, or guardian of the estate of the owner;

(7) "At-risk persons" shall mean those persons who reside in dwellings or dwelling units which were constructed and originally painted prior to 1945 or other dwellings in geographic areas in which a high content of lead in paint was used and a high incidence of lead poisoning may be reasonably expected or has been reported; and

(8) "Outreach programs" shall mean those efforts to locate, screen, and diagnose for elevated lead blood levels, those at-risk persons who are not utilizing existing screening and diagnostic programs or those programs which may be established after June 21, 1974.

Section 391. KRS 211.920 is amended to read as follows:

As used in KRS 211.925 to 211.945, unless the context otherwise requires:

(1) "Cabinet" shall mean the Cabinet for Health ***and Family*** Services.

(2) "State confinement facility" shall mean a penal or correctional facility or juvenile detention or treatment facility operated by or under the supervision of the Commonwealth of Kentucky.

(3) "Public health" and "health" shall mean and include, but shall not be limited to, all environmental, dental, mental, medical, and nutritional aspects of the health of persons confined in a state confinement facility.

Section 392. KRS 211.970 is amended to read as follows:

As used in KRS 211.972 to 211.982, unless the context requires otherwise:

(1) "Approved" means that which has been considered acceptable to the cabinet;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services and includes its authorized agents;

(3) "Grease" means fats or oils of animal, vegetable, or mineral origin, separately or in colloidal or dissolved states in combination with soaps, detergents, or food particles;

(4) "Grease trap" means a component designed to separate grease and its constituents from the wastewater stream, provide for storage of separated grease, and discharge the remaining wastewater for treatment;

(5) "Holding tank" means a tank which provides limited pretreatment and storage for off-site disposal where site limitations preclude immediate installation of a subsurface soil absorption system, or connection to a municipal sewer. It also includes portable toilets and similar temporary-use units which contain holding tanks;

(6) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, company, or governmental unit;

(7) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services;

(8) "Sewage" means domestic blackwater and greywater wastes, but does not include waste from industrial or commercial processes;

(9) "Sewage pretreatment unit" means a watertight sewage treatment structure designed and constructed to receive raw sewage, separate solids from liquids, digest organic matter through a period of retention, and allow clarified effluent to discharge to a subsurface soil absorption system. Pretreatment units fall into three (3) basic categories:

   (a) Septic tanks, which rely predominantly on anaerobic bacterial action for treatment;

   (b) Aerobic units, which introduce atmospheric air into the sewage to promote treatment by aerobic bacteria; and

   (c) Combination units, which provide treatment through both anaerobic and aerobic bacterial action and mechanical filtering, ozonation, or ultraviolet irradiation;

(10) "Sewage sludge" means the solid or semisolid residues which are retained within a sewage pretreatment unit or grease trap, as a result of mechanical, hydraulic, biologic, or chemical actions. It also includes raw sewage accepted and stored within a holding tank;

(11) "Site" means a facility or parcel of land under the ownership of any person which is intended for use as the ultimate disposal or treatment location for sewage sludge; and

(12) "Tank" means any container placed on a vehicle to carry in transport sewage sludge removed from a sewage pretreatment unit, grease trap, or holding tank.

Section 393. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be guilty of a violation. Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be guilty of a Class A misdemeanor. Each subsequent violation of any provision of KRS 211.182 shall constitute a Class D felony.

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Health ***and Family*** Services to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day of violation or noncompliance shall constitute a separate offense.

(5) A person who performs or offers to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities who is not certified as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A misdemeanor.

(6) Any person who performs lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities, who willfully violates the standards for performing lead-hazard detection or lead-hazard abatement procedures included in the administrative regulations promulgated pursuant to KRS 211.9075 shall be guilty of a Class D felony.

(7) The penalties provided in subsections (5) and (6) of this section are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

(8) Any person who violates any provisions of KRS 211.760 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

Section 394. KRS 211.993 is amended to read as follows:

Anyone who fails to comply with any provisions of KRS 211.870, 211.890, or with any rules or regulations adopted pursuant to KRS 211.870 or 211.890 or fails to comply with any order of the Cabinet for Health ***and Family*** Services issued pursuant thereto shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of such violation or noncompliance shall constitute a separate offense.

Section 395. KRS 212.020 is amended to read as follows:

(1) The secretary of the Cabinet for Health ***and Family*** Services shall appoint, from a list of nominees, three (3) qualified, licensed, and practicing physicians; one (1) qualified, licensed, and practicing dentist; one (1) qualified, licensed, and practicing registered nurse; one (1) licensed engineer engaged in the practice of civil or sanitary engineering; one (1) qualified, licensed, and practicing optometrist; one (1) qualified licensed and practicing veterinarian; one (1) licensed pharmacist; and one (1) lay person knowledgeable in consumer affairs residing in each county who, together with the county judge/executive and one (1) person appointed by the fiscal court in each county, shall constitute a local board of health for the respective counties in which they reside. The list of nominees submitted to the secretary shall be accepted from any source and shall be solicited and obtained from the county judge/executive, fiscal court, and county health department staff; and nominations of physicians, dentists, nurses, engineers, optometrists, veterinarians, and pharmacists shall be solicited and obtained from the county's medical society, dental society, nursing association, engineering association, optometric association, veterinarian association, and pharmacists' association, respectively. If a county does not have three (3) qualified, licensed, and practicing physicians or one (1) qualified, licensed, and practicing dentist or one (1) qualified, licensed, and practicing registered nurse or one (1) qualified, licensed, and practicing civil or sanitary engineer or one (1) qualified, licensed, and practicing optometrist or one (1) qualified, licensed, and practicing veterinarian, or one (1) licensed pharmacist residing therein, the secretary of the Cabinet for Health ***and Family*** Services may appoint a resident lay person knowledgeable in consumer affairs in lieu thereof for each such vacancy. The members of the local board shall hold office for a term of two (2) years with physicians, dentists, pharmacists, and fiscal court appointees appointed in even-numbered years and nurses, engineers, optometrists, veterinarians, and lay appointees appointed in odd-numbered years, for terms from the date of their appointment, beginning on or after January 1, 1993, and until their successors are appointed, except the terms of the first appointment of all physician and fiscal court appointee terms beginning on January 1, 1993, shall expire on December 31, 1993; dentist terms beginning on August 1, 1992, shall expire on December 31, 1993; nurse, engineer, and optometrist appointments beginning on August 1, 1992, shall expire on December 31, 1994; and veterinarian and lay appointments beginning on October 1, 1992, shall expire on December 31, 1994. The members of the board shall receive no compensation for their services.

(2) The secretary shall remove any member, other than the county judge/executive or fiscal court appointee, who fails to attend three (3) consecutive scheduled meetings, and may remove any board member, except the county judge/executive or fiscal court appointee, as provided by KRS 65.007. The fiscal court may remove its appointee in like fashion.

Section 396. KRS 212.025 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services and any local health department, with the approval of the Cabinet for Health ***and Family*** Services, is hereby authorized to provide home nursing care services and other health services and may charge fees therefor. The secretary of the Cabinet for Health ***and Family*** Services shall adopt a fee schedule covering all charges for such services.

(2) All fees and charges collected by the Cabinet for Health ***and Family*** Services or the local health department concerned shall be credited to a trust and agency fund to be used only for carrying out the provisions of this section.

Section 397. KRS 212.120 is amended to read as follows:

(1) Upon the creation of a county health department, the fiscal court of the county shall at once notify the Cabinet for Health ***and Family*** Services of the action of the county to create, establish, and maintain a county health department. When the duly qualified officials of a county certify to the Cabinet for Health ***and Family*** Services a true copy of the order or vote establishing a health department, and providing for its maintenance, and state the amount of the annual appropriation provided by the county the Cabinet for Health ***and Family*** Services shall make an investigation as to the necessity of the development of the department, and the adequacy of the appropriation provided by the county therefor, and shall report its findings to the Governor.

(2) If the Cabinet for Health ***and Family*** Services finds that such county health department has been established in accordance with the provisions of this chapter and is being maintained, conducted, and operated in accordance with the standards prescribed by the Cabinet for Health ***and Family*** Services, the Cabinet for Health ***and Family*** Services shall, on or before July 1 in each year, allot to each such county health department such amount that the Cabinet for Health ***and Family*** Services deems to constitute a just and equitable share of all funds available therefor by appropriation by the General Assembly of this Commonwealth, by grants and gifts received by this Commonwealth from the government of the United States of America or any of its agencies or instrumentalities, and from other sources. Provided, however, that no allotment to any such county health department shall be less than two thousand five hundred dollars ($2,500).

(3) In determining the allotments referred to in subsection (2) of this section, the Cabinet for Health ***and Family*** Services shall endeavor to provide for a distribution of the funds in a manner that is reasonably calculated to equalize, so far as practicable, local health services to the people of all counties served by the county health departments. The Cabinet for Health ***and Family*** Services may take into consideration variations existing between counties by reasons of difference in population, resources, industrialization, tax assessments and tax rates, and other local factors and conditions; the legislative intent being hereby declared to be that counties shall provide, from local sources of revenue that are available or that may be made available to them, financial support of county health departments to the extent of their representative abilities.

(4) The Cabinet for Health ***and Family*** Services may, in its discretion alter or modify allotments from time to time and shall cancel any allotment whenever it finds that there is no further need or necessity for a particular county health department for whose benefit the allotment was made or whenever a particular county health department for whose benefit an allotment was made is not maintained, operated, and conducted in accordance with the standards prescribed by the Cabinet for Health ***and Family*** Services. Nothing in this section shall be construed as requiring the Cabinet for Health ***and Family*** Services to allot all funds available for local health purposes, or as prohibiting the department from allotting such portion thereof, as the department may determine, to a reserve account which may be suballotted by the department in such a manner that it considers proper in the event of emergencies, disaster, or unforeseen events, without regard to the provisions of subsection (3) of this section.

(5) Notwithstanding the provisions of KRS 45.229 and any other provision of the Kentucky Revised Statutes, any unexpended or unencumbered balance of any appropriations made available for allotment and expenditure, as provided above, for the first fiscal year of each biennium, remaining at the end of such fiscal year, shall be carried forward and be available for expenditure at any time during the ensuing fiscal year within the biennium and no portion thereof shall lapse to the general fund.

Section 398. KRS 212.130 is amended to read as follows:

Immediately after receiving notice of the creation of a county or district department of health, the Cabinet for Health ***and Family*** Services shall notify the secretary of the county board or boards of health to call a meeting of the county board or boards of health for the purpose of organizing the county or district department of health.

Section 399. KRS 212.170 is amended to read as follows:

(1) The county board of health of each county having a county department of health shall, subject to the approval of the Cabinet for Health ***and Family*** Services, appoint a health officer who shall, subject to merit system provisions, hold office at the pleasure of both the county board and the Cabinet for Health ***and Family*** Services.

(2) A health officer may:

   (a) With the approval of the Cabinet for Health ***and Family*** Services and the local boards of health concerned, serve in such capacity for more than one county; and

   (b) At the discretion of the local board, act as chief administrative officer of the board.

(3) A health officer may appoint an administrative assistant for each county served by him subject to the approval of the

Cabinet for Health ***and Family*** Services. An administrative assistant shall exercise such duties as may be delegated to him by the health officer.

(4) A health officer may employ and fix the compensation of, by contract or otherwise, subject to the approval of the Cabinet for Health ***and Family*** Services, all medical, technical, clerical, professional, and other employees necessary for the maintenance and operation of the local health department in accordance with standards and merit system provisions prescribed by the Cabinet for Health ***and Family*** Services.

(5) In the absence of a local health officer, the secretary for health ***and family*** services or his duly appointed representative shall serve as health officer for the county concerned.

(6) Appeals under the local health department merit system shall be conducted in accordance with KRS Chapter 13B.

Section 400. KRS 212.180 is amended to read as follows:

Every health officer provided for by this chapter shall be a duly licensed physician and shall possess such other qualifications that are prescribed by the Cabinet for Health ***and Family*** Services.

Section 401. KRS 212.190 is amended to read as follows:

(1) The health officer of counties that do not have a county department of health shall receive a reasonable compensation, the amount of which shall be fixed by the fiscal court at the time of, or immediately after, his election, and to be paid as other county officers are paid. In no case shall such health officer claim or receive from the county any compensation other than the salary fixed by the fiscal court.

(2) The health officer of counties having a county department of health shall receive a salary to be fixed by the county board of health subject to the approval of the Cabinet for Health ***and Family*** Services. He shall receive necessary traveling expenses.

Section 402. KRS 212.210 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services and the local boards of health may examine into all nuisances, sources of filth, and causes of sickness that may, in their opinion, be injurious to the health of the inhabitants in any county in this state, or in any vessel within any harbor or port in any county in this state. Whenever any such nuisance, source of filth, or cause of sickness is found to exist on any private property, or in any vessel within any port or harbor in any county in this state, or upon any watercourse in this state, the Cabinet for Health ***and Family*** Services or the local board of health may order, in writing, the owner or occupant thereof, at his own expense, to remove the same within twenty-four (24) hours, or within such reasonable time thereafter as the board may order.

(2) If drinking water used by school children is found to be dangerous to their health, the local board of health or Cabinet for Health ***and Family*** Services may order that a supply of pure water be furnished at the expense of the county or city board of education.

(3) If in the opinion of the local board of health or Cabinet for Health ***and Family*** Services a school building is constructed in violation of law and is found to be unsanitary or unsafe for the housing of children, the local board of health or Cabinet for Health ***and Family*** Services may institute an action in the Circuit Court of the county where the building is situated, and the court, after due hearing and verifying the facts, may order a safe and sanitary school building to be erected within a reasonable time by the county or city board of education in accordance with the laws of the state governing the erection of schoolhouses and the control of disease, and the rules and regulations of the Cabinet for Health ***and Family*** Services.

(4) Any local board of health shall, for the purpose of controlling and eradicating rats and other unsanitary nuisances, require the owner or possessor of any building designed for human habitation and containing two (2) or more apartment units, to provide, where a specific area has been designated for the depositing of refuse on the premises, waste receptacles approved by the board. The board may further require that the design, construction, and maintenance of the area in which the waste receptacles are kept meet reasonable standards set by the board.

Section 403. KRS 212.230 is amended to read as follows:

(1) County, city-county, and district boards of health shall:

  (a) Appoint a health officer and fix his salary subject to the approval of the Cabinet for Health ***and Family*** Services;

  (b) Hold a regular meeting at least once every three (3) months, except that county or city-county boards whose counties are members of a district health department shall hold a regular meeting at least once every twelve (12) months, and other special or regular meetings as desired and keep full minutes of all the proceedings in a book provided for this purpose;

  (c) Adopt, except as otherwise provided by law, administrative regulations not in conflict with the administrative regulations of the Cabinet for Health ***and Family*** Services necessary to protect the health of the people or to effectuate the purposes of this chapter or any other law relating to public health;

  (d) Act in a general advisory capacity to the health officer on all matters relating to the local department of health;

  (e) Hear and decide appeals from rulings, decisions, and actions of the local health department or health officer, in accordance with KRS Chapter 13B, if the aggrieved party makes written request therefor to the board within thirty (30) days after the ruling, decision, or action complained of; and

(f) Perform all other functions necessary to carry out the provisions of law and the regulations adopted pursuant thereto, relating to local boards of health; and

(2) Except as otherwise provided in subsection (1), all powers and authority of the local board of health under existing statutes are transferred to the county department of health.

Section 404. KRS 212.240 is amended to read as follows:

County departments of health shall:

(1) Administer and enforce in the county and in all cities and towns situated therein, except as otherwise provided by law, all applicable public health laws of the Commonwealth and all of the rules and regulations of the secretary of the Cabinet for Health ***and Family*** Services and county board of health issued thereunder;

(2) Under the general supervision of the county board of health and the Cabinet for Health ***and Family*** Services, formulate, promote, establish, and execute policies, plans, and programs to safeguard the health of the people of the county and establish, maintain, implement, promote, and conduct facilities and services for the purpose of protecting the public health; and

(3) Make such statistical or other reports relating to the activities of the department as they may deem expedient or as may be required by the county board of health or the Cabinet for Health ***and Family*** Services.

Section 405. KRS 212.245 is amended to read as follows:

County, city-county, and district health departments may:

(1) Utilize available services, facilities, equipment, and personnel of the Cabinet for Health ***and Family*** Services or of the United States Public Health Service upon such terms of payment or reimbursement as are agreed on by the department and the Cabinet for Health ***and Family*** Services or the United States Public Health Service;

(2) Contract for services not otherwise available;

(3) Provide for the public health training and instruction of employees and compensate and defray the reasonable expenses of said employees while they are pursuing public health training courses approved by the Cabinet for Health ***and Family*** Services;

(4) Establish or contribute to a retirement system or fund for employees of the department, including any retirement system for state employees;

(5) Issue and require the heads of families and other persons to execute such orders as it considers expedient to prevent the outbreak and spread of communicable diseases, and to this end bring the infected population under prompt and proper treatment;

(6) Issue written orders directed to the owner or occupant of any property, or to any person, firm, or corporation whatever, commanding, within the time and manner specified in the order, compliance with applicable public health laws of this state and all regulations of the Cabinet for Health ***and Family*** Services or the county board of health. Notwithstanding the provisions of this section and KRS 212.210, any health officer may institute and maintain mandatory or prohibitory injunction proceedings in the appropriate Circuit Courts of this state to abate nuisances that are or may be a menace to the health of the people of the state or community, and to compel compliance with the public health laws of this state and the rules and regulations of the Cabinet for Health ***and Family*** Services and the county board of health and the orders described in this section or in KRS 212.210;

(7) Through its health officers, representatives, and agents, enter upon any premises when necessary for the purpose of making inspections and investigations and view evidence and interrogate persons to the extent required in the performance of their duties and responsibilities. The department or the health officer thereof may issue subpoenas, subpoena duces tecum, and all necessary process in proceedings brought before or initiated by the department or board, and such process shall extend to all parts of the Commonwealth. Service of process may be made by certified mail, return receipt requested, or in the manner prescribed by the Rules of Civil Procedure;

(8) Provide administrative, investigative, and clerical services required by the local board of health;

(9) Cooperate with other health departments, agencies, and organizations in matters relating to public health;

(10) Elect coverage under the state's workers' compensation laws with the approval of the Cabinet for Health ***and Family*** Services; or

(11) Except as otherwise provided by law, do all other things reasonably necessary to protect and improve the health of the people.

Section 406. KRS 212.260 is amended to read as follows:

(1) The health officer of a county that does not have a county department of health shall enforce the rules and regulations of the Cabinet for Health ***and Family*** Services and county boards of health.

(2) The health officer of a county that has formed a county department of health shall:

(a) Devote his entire time to the duties of his office, and shall not engage in the private practice of medicine;

(b) Be secretary of the county board of health and keep full minutes of the proceedings of the county board of health in a book provided for that purpose;

(c) Be the chief administrative officer of the county health department.

Section 407. KRS 212.270 is amended to read as follows:

The county and Commonwealth's attorneys and the Attorney General, within their respective jurisdictions, shall represent the Cabinet for Health ***and Family*** Services and local boards of health in all matters relating to the enforcement of the health and medical laws and the performance of the duties of those boards, but when the secretary for health ***and family*** services deems it necessary, it may employ at its discretion special attorneys and inspectors to assist the county and Commonwealth's attorneys or the Attorney General and may pay reasonable compensation for the same from any unexpended funds at its disposal.

Section 408. KRS 212.370 is amended to read as follows:

When the board has been organized and the properties transferred, as provided in KRS 212.350 to 212.620, the board, throughout said county, including all municipalities therein, shall, except as otherwise provided by law, have exclusive control and operation, under the acts of the General Assembly of Kentucky, the ordinances, if any, of the legislative bodies of the municipalities in said county, the orders and resolutions, if any, of the fiscal court of said county, the regulations of the Cabinet for Health ***and Family*** Services, and the rules and regulations of the board, of all matters relating to institutions safeguarding the public health, including city or county hospitals, tuberculosis hospitals, eruptive hospitals, chronic hospitals, medical care of the indigent, and all other matters affecting public health, including education of the public regarding such conditions, and the adoption of remedial measures, and the enforcement of all laws and regulations affecting public health, including existing ordinances of such city and, if any, of other municipalities in said county, and any ordinances which may be hereafter enacted by the legislative bodies of such municipalities, including laws and ordinances regulating sanitation, milk inspection, meat inspection, livestock inspection, wells, drinking water and fountains, vaults, vaccination and immunization, quarantine, and the maintenance of laboratories and clinics necessary for the promotion of public health. The board may expend funds for the purpose of conducting research work, including laboratory and biometrical work, and establishing, erecting, and maintaining laboratories and other buildings and all appurtenances thereto for research work as to the prevalence, causes, cure, and prevention of disease, and to that end the board is authorized to expend funds in the employment of such persons or organizations, scientists, or research experts as the board may deem proper. The board shall be charged with the responsibility for the collection from official and other sources and for the publication of such statistics and information as may be useful and necessary for the performance of its duties, and upon such other matters as such municipalities by ordinance and said county, by resolution of the fiscal court, respectively, or the Cabinet for Health ***and Family*** Services of Kentucky, by regulation, place under the control of said board. The board may charge reasonable fees to sewage treatment plant operators for the regulation and inspection of sewage treatment plants to be paid within twelve (12) months from the time of regulation and inspection.

Section 409. KRS 212.420 is amended to read as follows:

The director of health shall be a physician, qualified as a public health administrator as provided by standards set up by the secretary of the Cabinet for Health ***and Family*** Services of Kentucky and duly qualified and licensed or eligible for license as a medical practitioner in the Commonwealth of Kentucky. He shall receive an annual salary of five thousand dollars ($5,000), payable as other salaries are paid, and shall serve at the pleasure of the board. If said director of health is removed by the board he shall be notified thereof in writing, and before such removal shall become effective said director shall have ten (10) days within which to make a written request for a public hearing in regard thereto. The board shall not be required to hold a hearing unless so requested by said director. If no such request is made said removal shall become effective upon the expiration of said ten (10) day period. If such request is made said public hearing shall be held at the office of the board within ten (10) days after such request is received by the board, and said director shall not be removed until after such hearing has been held, and a decision rendered by the board. The board's decision shall be final.

Section 410. KRS 212.430 is amended to read as follows:

(1) The board shall fix the compensation of all agents and employees of the board, and such compensation shall be as nearly comparable as practicable with the compensations paid and received by corresponding or comparable civil employees of such city or county.

(2) The agents and employees of the board shall be employed and governed, as provided in this subsection, in accordance with the merit system. For the purpose of governing the employment, appointment, suspension, layoff, and dismissal of employees by the board, and personnel matters relating thereto, any law or laws, or amendments thereof, and any rules and regulations issued pursuant thereto, authorizing, creating, and governing any city board or commission empowered to administer and enforce civil service laws, rules, and regulations in and for such city are hereby made applicable to the personnel and personnel matters of the board to the extent of and with respect to corresponding and comparable offices, positions, and places of employment of and under the board. Such city board or commission is hereby authorized and directed to perform, without compensation from the board, all things necessary to be done to accomplish the aforesaid purpose, including the creation and putting into effect of, and maintaining, a "classified service," in accordance with which the board will be governed in the employment of agents and employees and in the performance of its duties under this section. The director of health of the board shall function as appointing authority in and with respect to said personnel matters of the board. Provided, however, regulations of such city board or commission as may administer the civil service laws, rules, and regulations in such city, as applied to employees of the board, shall be not less stringent than those of the merit system of the Cabinet for Health ***and Family*** Services of Kentucky.

Section 411. KRS 212.550 is amended to read as follows:

The board shall install and maintain a modern and efficient system of accounting and keep financial records. The board, however, may select and use the finance department of such city to do its financial accounting and make its disbursements in such manner as may be agreed upon by and between the board and the director of finance of said city, which work shall be done by said finance department without compensation from the board. The Auditor of Public Accounts of the Commonwealth of Kentucky, the comptroller and inspector of such city, and the county auditor of such county, respectively, shall have access to the books and the records of the board, and upon the request of the Cabinet for Health ***and Family*** Services of Kentucky said Auditor of Public Accounts, or upon the direction of the legislative body of such city the said comptroller and inspector, or upon the direction of the fiscal court of such county the said county auditor, shall make an audit of the board's accounts and report back thereon.

Section 412. KRS 212.570 is amended to read as follows:

The board shall make an annual report of its fiscal and other operations to the Cabinet for Health ***and Family*** Services of Kentucky, the fiscal court of such county and to the legislative body of such city. Such report shall be filed within sixty (60) days after the close of the board's fiscal year and shall be accompanied by such information, tables, and data as may be necessary to present a reasonably detailed report of the board's condition and activities during the preceding fiscal year.

Section 413. KRS 212.600 is amended to read as follows:

All municipalities in any county of this Commonwealth in which county there is located a city of the first class or a consolidated local government are hereby made subject to the provisions of KRS 212.350 to 212.620, and it shall be the duty of the board created in KRS 212.350 to make and enforce all reasonable regulations controlling or affecting the health of citizens and residents of said county, including all municipalities therein, in conformity with the provisions of KRS 212.350 to 212.620 and the laws of the Commonwealth of Kentucky, the rules and regulations of the Cabinet for Health ***and Family*** Services of Kentucky, and the ordinances of said municipalities now or hereafter in effect and not in conflict with the provisions of KRS 212.350 to 212.620. Such regulations shall, as nearly as may be practicable, be uniform throughout the county, both within and without the said municipalities; provided, however, that nothing contained in this section shall be construed to prevent the board from making specific health regulations applying only to such section or sections of said county as may be deemed to require special treatment. The board shall have power and authority to examine into all nuisances, sources of filth, and causes or probable causes of sickness, which may in its opinion be injurious to the health of the residents of such county or of any section or sections thereof.

Section 414. KRS 212.626 is amended to read as follows:

As used in KRS 212.627 to 212.639, unless the context otherwise requires:

(1) "Board" means the urban-county board of health;

(2) "City-county board of health" means the city, county, or city-county board of health existing in the county on July 1, 1977;

(3) "City-county department of health" means the city, county, or city-county department of health existing in the county on July 1, 1977;

(4) "Commissioner" means the commissioner of health for the urban-county health department;

(5) "County" means any county of the Commonwealth containing any city with a population of over one hundred thousand (100,000) at the time of merger creating an urban-county form of government;

(6) "Department" means the urban-county department of health as created in KRS 212.627 and its designated agents;

(7) "Cabinet[~~ for Health Services~~]" means the Cabinet for Health ***and Family*** Services;

(8) "Mayor" means the chief executive officer of any county containing any city with a population of over one hundred thousand (100,000) at the time of merger creating an urban-county form of government; and

(9) "Person" means any person, or domestic or foreign individual corporation, government, or governmental subdivision or agency, business, estate, trust, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

Section 415. KRS 212.628 is amended to read as follows:

(1) All real, personal, and mixed property belonging to the city-county board of health or city-county department of health is hereby transferred to the board and the city-county board of health or city-county department of health shall take all the necessary and proper steps to effect the legal transfer of title and possession of all such property to the board.

(2) When the board has been organized and all property transferred as provided under subsection (1) of this section, the board may control, operate, or monitor all matters within the county affecting public health including institutions established to safeguard the public health which may encompass city or county medical facilities, nursing homes, medical care of the indigent, and laboratories and clinics necessary for the promotion of public health and environmental protection and which are required or permitted under the provisions of any act of the General Assembly, under any ordinances, orders, and resolutions of the legislative body of the county, or under any rules or regulations promulgated by the Cabinet for Health ***and Family*** Services, or by the board.

Section 416. KRS 212.636 is amended to read as follows:

(1) The board shall establish the compensation plan for all employees of the department, and such compensation shall be as nearly comparable as practicable with the compensation paid to and received by employees in comparable agencies.

(2) The employees of the department shall be employed and governed in accordance with a merit system. The board shall provide for the recruitment, examination, appointment, promotion, transfer, layoff, removal, discipline, compensation, and welfare of the department's employees by establishing a system of personnel administration based on merit principles and scientific methods whereby the rules and regulations of such system shall not be less stringent than those of the merit system of the Cabinet for Health ***and Family*** Services. Such system shall include a personnel board of five (5) members appointed by the board for two (2) year terms. The board shall select as members of the personnel board public-spirited citizens of recognized experience in the improvement of public administration and in the impartial selection of efficient public personnel. The personnel board shall be responsible for establishing rules and regulations for the purpose of governing the administration of the personnel system. The commissioner shall function as appointing authority in and with respect to the personnel matters of the board. The board shall have one (1) year from July 1, 1977, to implement such a system.

(3) Notwithstanding the provisions of KRS 61.510 to 61.692 and KRS 78.510 to 78.852, on July 1, 1977, all regular full-time present and future public health employees of the department shall be included within the provisions of the state retirement system.

(4) When the board is qualified and organized as provided in KRS 212.626 to 212.639, all city-county department of health employees at that time shall be transferred to and continued in the service of the department created under KRS 212.626 to 212.639. Provided, however, that any and all of such employees who at that time are in the classified service of the city-county department of health shall be continued in the classified service of the department with the same status they have had in the classified service of the city-county department of health.

Section 417. KRS 212.639 is amended to read as follows:

(1) In order to provide sufficient funds for carrying out the provisions of KRS 212.626 to 212.639, the department shall be entitled to the same state aid as is provided for county and district health departments under KRS 212.120, upon notice of the establishment of the department being given to the Cabinet for Health ***and Family*** Services as provided in KRS 212.120, the legislative intent being hereby declared to be that funding from the Cabinet for Health ***and Family*** Services be continued at least at the same level and proportion after July 1, 1977, as before its implementation and that modification or alteration of the annual allotment not be made unless for causes enumerated under the provisions of KRS 212.120.

(2) In the event the sums derived from the appropriations, together with funds otherwise available from any other source to the board during any fiscal year, for its necessary expenditures in the maintenance and operation of the board, exceed its need for such expenditures during such fiscal year, any such unexpended funds at the end of the fiscal year shall be carried forward by the board to be used in paying for its operating costs and expenses for its ensuing year.

(3) The fiscal year of the board shall begin on July 1 of each year and shall end on June 30 of the following year.

(4) In a timely fashion governed by the requirements of the various funding sources such as the Cabinet for Health ***and Family*** Services, urban-county government, and any and all other sources, the commissioner shall prepare for board approval a budget setting forth the total amounts of funds available from all sources for expenditures during the board's fiscal year, and setting forth the estimated expenditures of the board for the fiscal year.

(5) The board shall install and maintain a system of accounting and shall file an annual report of its fiscal and other operations to the Cabinet for Health ***and Family*** Services and to the legislative body of the urban-county government after the close of the board's fiscal year. The annual report shall be accompanied by such information, tables, and data as may be necessary to present a reasonably detailed report of the board's condition and activities during the preceding year.

Section 418. KRS 212.660 is amended to read as follows:

(1) After the establishment of a city-county health department as provided in KRS 212.640, the city-county board of health shall appoint a health officer, subject to the approval of the Cabinet for Health ***and Family*** Services. Other persons necessary for the work of the city-county health department shall be appointed in the same manner and subject to the same conditions as are other county health department employees.

(2) Any city health department employee who is covered by a pension fund for civil service employees, as authorized by KRS 90.400 or any other section of the Kentucky Revised Statutes, prior to the consolidation of the city-county health department, may elect to continue such coverage thereafter in lieu of electing coverage under the Kentucky Employees Retirement System, KRS 61.510 to 61.705; provided, however, that all new employees of such consolidated city-county health department shall thereafter be covered by the Kentucky Employees Retirement System.

Section 419. KRS 212.710 is amended to read as follows:

Any city-county department of health established under KRS 212.350 or 212.640 shall be entitled to the same state aid as is provided for county and district health departments under KRS 212.120, upon notice of the establishment of the department being given to the Cabinet for Health ***and Family*** Services as provided in KRS 212.120.

Section 420. KRS 212.725 is amended to read as follows:

If, after the establishment of the public health taxing district, as provided in KRS 212.720, the tax-levying authorities of the district, in the opinion of the county or city-county board of health, do not appropriate an amount sufficient to meet the public health needs of the county or the city-county health department or do not appropriate an amount sufficient to meet the standards prescribed by the Cabinet for Health ***and Family*** Services for health departments, the county or city-county board of health, acting as the governing body of the taxing district, shall with the approval of the Cabinet for Health ***and Family*** Services, impose by resolution a special ad valorem public health tax in such amount that it deems sufficient, but not in excess of the maximum amount approved by the electorate as provided for in KRS 212.720. The fiscal court shall upon receipt of a duly certified copy of said resolution, include in the next county ad valorem tax levy said special public health tax imposed by the county or city-county board of health which shall be in addition to all other county ad valorem taxes. Said special public health tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the county or city-county board of health to be used solely for the maintenance and operation of the county or city-county health department.

Section 421. KRS 212.755 is amended to read as follows:

(1) If, after the establishment of the public health taxing district as provided for in this section and KRS 212.750, the tax-levying authorities of the district, in the opinion of the county or city-county board of health or urban-county department of health, do not appropriate an amount sufficient to meet the public health needs of the county or the city-county health department or urban-county department of health or do not appropriate an amount sufficient to meet the standards prescribed by the Cabinet for Health ***and Family*** Services for local health departments, the county or city-county board of health or urban-county department of health, acting as the governing body of the taxing district shall, with the approval of the Cabinet for Health ***and Family*** Services, request the fiscal court or urban-county government to impose by resolution a special ad valorem public health tax in an amount that it deems sufficient, but not in excess of ten cents ($0.10) per one hundred dollars ($100) of full value assessed valuation. The fiscal court or urban-county government may, upon receipt of a duly certified copy of the resolution, include in the next county ad valorem tax levy the special public health tax imposed by the county or city-county board of health or urban-county department of health, which shall be in addition to all other county ad valorem taxes. If levied by the fiscal court or urban-county government, the special public health tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the county or city-county board of health or urban-county department of health to be used solely for the maintenance and operation of the county, city-county, or district health department or urban-county department of health and as provided in KRS 212.740.

(2) Public health taxing districts organized pursuant to the provisions of KRS 212.720 to 212.740 or organized pursuant to this section and KRS 212.750 shall not be subject to the provisions of the compensating tax rate as defined by KRS 132.010 nor to Chapter 2, 1965 First Extraordinary Session of the General Assembly; provided, however, that no public health taxing district shall impose a rate higher than ten cents ($0.10) per one hundred dollars ($100) of full value assessed valuation.

Section 422. KRS 212.780 is amended to read as follows:

As used in KRS 212.780 to 212.794 the following definitions shall apply:

(1) "Board" means independent district board of health as created in KRS 212.780 to 212.794;

(2) "Cabinet" means Cabinet for Health ***and Family*** Services;

(3) "County board of health" means a local board of health as defined by KRS 212.640 or 212.020;

(4) "Department" means independent district department of health created in KRS 212.780 to 212.794;

(5) "Director" means the district director of health;

(6) "District board of health" means the district board of health as established pursuant to KRS 212.810 to 212.930;

(7) "District department of health" means the district department of health as established pursuant to KRS 212.810 to 212.930;

(8) "Independent district board of health" means the independent district board of health as created in KRS 212.780 to 212.794;

(9) "Judge/executive" means the county judge/executive of any county fiscal court as defined in KRS 67.700 to 67.710; and

(10) "Metropolitan statistical area" (MSA) means metropolitan statistical area as defined by the United States Bureau of the Census, United States Department of Commerce.

Section 423. KRS 212.830 is amended to read as follows:

As used in 212.810 to 212.930, unless the content requires otherwise:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services; and

(2) "Health officer" means the chief administrative officer of the district health department.

Section 424. KRS 212.855 is amended to read as follows:

(1) Except for district health departments which serve a county containing a city of the first class, an urban-county government, or which are part of an interstate metropolitan statistical area where the Kentucky population of the metropolitan statistical area exceeded two hundred fifty thousand (250,000) people on July 1, 1989, a district board of health shall consist of the following members:

(a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

(b) One (1) additional resident member per county per fifteen thousand (15,000) population or fraction thereof, which shall include the mayor, city manager, or the designee of the city manager of each city of the second class as an ex officio voting member, except that the total number of members from any county in a district shall not exceed seven (7) members.

(2) All members except for the county judges/executive and the mayors of second class cities shall be appointed by the county or city-county boards of health from the membership of each county or city-county board of health.

(a) The secretary of the Cabinet for Health ***and Family*** Services shall notify the chairman of each county or city-county board of health in the district of the name of each member from that county whose term is expiring.

(b) Upon receipt of the notification, under paragraph (a) of this subsection, each county or city-county board of health shall appoint one (1) of its members to fill each vacant position from that county. At least twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%) of the appointed members of the district board shall be doctors of medicine or osteopathy qualified, licensed, and practicing in the Commonwealth, and there shall be at least one (1) qualified, licensed, and practicing registered nurse, one (1) qualified, licensed, and practicing dentist, one (1) licensed pharmacist, one (1) qualified licensed engineer engaged in the practice of civil or sanitary engineering, one (1) qualified, licensed, and practicing optometrist, and one (1) qualified, licensed, and practicing veterinarian, when available, among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives.

(c) The chairman of the county or city-county board of health shall inform the secretary within forty-five (45) days of receipt of this notification of the names of the county or city-county board of health members appointed to serve on the district board. Appointed members of district boards of health shall not begin to serve on a district board of health until the time the secretary has certified their eligibility to serve on the board.

(3) If a vacancy exists upon the district board, the vacancy shall be filled in a manner consistent with subsection (2) of this section, with the appointed member to fill the vacant seat coming from the county in which the vacancy occurs and the appointed member resides. If the term of a member on the county board of health expires or the member cannot complete the term on the county board, the seat on the district board of health shall be declared vacant and the county or city-county board of health shall appoint another of its members to fill any unexpired portion of the term on the district board.

(4) The appointed members of the district board of health shall hold office for a term of two (2) years ending on December 31 or until their successors are appointed. The terms of the first appointments shall be staggered so that members whose terms expire on June 30, 1992, shall be replaced with appointed members whose terms expire on December 31, 1994. Members whose terms expire on June 30, 1993, shall be replaced with appointed members whose terms expire on December 31, 1995.

(5) The secretary shall remove any appointed member who fails to attend three (3) consecutive scheduled meetings.

Section 425. KRS 212.870 is amended to read as follows:

(1) A district health officer may employ and fix the compensation of, by contract or otherwise, subject to the approval of the cabinet all medical, administrative, technical, clerical, professional, and other employees necessary for the maintenance and operation of the district health department in accordance with standards and merit system provisions prescribed by the cabinet.

(2) In the absence of a district health officer the secretary of the Cabinet for Health ***and Family*** Services or his duly appointed representative shall serve as health officer for the district health department.

(3) All employees of county health departments which join a district health department shall become employees of the district health department.

Section 426. KRS 212.880 is amended to read as follows:

District health departments shall:

(1) Administer and enforce in the district, except as otherwise provided by law, all applicable public health laws of the Commonwealth and all rules and regulations of the Cabinet for Health ***and Family*** Services and the rules and regulations of the district board of health;

(2) With the advice of the district board of health and the cabinet, formulate, promote, establish, and execute policies, plans, and programs to safeguard the health of the people; and

(3) Make such statistical or other studies and reports relating to the activities of the cabinet as may be deemed expedient or as may be required by the district board of health or the cabinet.

Section 427. KRS 213.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(2) "Dead body" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death recently occurred;

(3) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. This definition shall exclude induced termination of pregnancy;

(4) "File" means the presentation of a vital record provided for in this chapter for registration by the[~~ Office of~~] Vital Statistics

Branch;

(5) "Final disposition" means the burial, interment, cremation, removal from the Commonwealth, or other authorized disposition of a dead body or fetus;

(6) "Induced termination of pregnancy" means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth. This definition shall exclude management of prolonged retention of product of conception following fetal death;

(7) "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domicilary care, or to which persons are committed by law;

(8) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which, after the expulsion or extraction, breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

(9) "Provisional death certificate" means an interim certificate identifying the deceased and authorizing a funeral director, or person acting as such, to take custody of the body and, except for cremation, to make final disposition;

(10) "Registration" means the acceptance by the[~~Office of~~] Vital Statistics ***Branch*** and the incorporation of vital records provided for in this chapter into its official records;

(11) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records and the collection of other reports required by this chapter;

(12) "Secretary" means the secretary for health ***and family*** services;

(13) "Sudden infant death syndrome" means the death of an ostensibly healthy child who is two (2) weeks of age or older but less than three (3) years of age, which occurs suddenly and unexpectedly, with no known or apparent cause, and which remains unexplained after the performance of an autopsy;

(14) "Vital records" means certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, or annulment, and data related thereto;

(15) "Vital statistics" means the data derived from certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, dissolution of marriage, and related reports;

(16) "Certificate" means the certificate of birth, death, fetal death, marriage, dissolution of marriage, or annulment as required by this chapter;

(17) "Commission" means the Commission for Children with Special Health Care Needs;

(18) "Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels; and

(19) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss.

Section 428. KRS 213.016 is amended to read as follows:

There shall be established in the Department for Public Health, Cabinet for Health ***and Family*** Services, a vital statistics program which shall maintain and operate the only official system of vital statistics in the Commonwealth.

Section 429. KRS 213.021 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall adopt administrative regulations pursuant to KRS Chapter 13A for the purpose of carrying out the provisions of this chapter.

Section 430. KRS 213.026 is amended to read as follows:

The secretary for health ***and family*** services shall designate the state registrar of vital statistics, hereinafter referred to as "state registrar," in accordance with merit system laws and administrative regulations.

Section 431. KRS 213.031 is amended to read as follows:

The state registrar, under the supervision of the commissioner of health, shall:

(1) Administer and enforce the provisions of this chapter and the administrative regulations issued hereunder; issue instructions for the efficient administration of the system of vital statistics; direct the system and[~~Office of~~] Vital Statistics ***Branch*** and be custodian of its records; supervise the activities of all persons when they are engaged in the operation of the system; and conduct training programs to promote uniformity of the system's policy and procedures throughout the Commonwealth;

(2) With the approval of the cabinet, design, furnish, and distribute forms required by this chapter and the administrative regulations issued hereunder, or prescribe other means for transmission of data to accomplish the purpose of complete and accurate reporting and registration;

(3) Coordinate and maintain in accordance with administrative regulations promulgated pursuant to this subsection, a system by which a child's Social Security number is transferred by the[~~Office of~~] Vital Statistics ***Branch*** to the Department of Education after receiving parental permission for the number to be used for planning and tracking purposes by the

Department of Education, local school districts, and the office. The regulations, at a minimum, shall establish a process to allow a parent or guardian when completing a certificate of birth to request that a Social Security number be assigned the child and that the number be automatically transmitted to the Department of Education for student identification purposes;

(4) Assist in preparing and publishing reports of vital statistics of the Commonwealth and other reports as required;

(5) Provide to local health departments copies of or data derived from certificates and reports required under this chapter. The state registrar shall establish a schedule with each local health department for transmittal of the copies or data. The copies shall remain the property of the[~~ Office of~~] Vital Statistics ***Branch***, and the uses which may be made of them and the period of their retention in the county shall be governed by the state registrar;

(6) Prepare and maintain a complete continuous index of all vital records registered under this chapter and provide, at not more than two (2) year intervals, a copy of the index to each local registrar; and

(7) Investigate cases of irregularity or violation of this chapter and when the cabinet deems it necessary, report violations to the Commonwealth's attorney of the proper county for prosecution.

Section 432. KRS 213.036 is amended to read as follows:

(1) Each county in the Commonwealth shall constitute a registration district for the purposes of carrying out the provisions of this chapter.

(2) The secretary shall, upon the recommendation of the state registrar, designate a local registrar in each registration district to aid in the efficient administration of the system of vital statistics. The local registrar shall be an employee of the local health department. The designation may be revoked by the secretary.

(3) The local registrar may designate one (1) or more employees of the local health department as deputy registrar. The local registrar may also appoint persons as deputy registrars who are not employees of the local health department if, in the opinion of the cabinet, the appointments are necessary. All appointments shall be subject to the approval of the state registrar.

(4) The local registrar shall supply blank forms of certificates to persons who require them. The local registrar shall carefully examine each certificate of birth or fetal death when presented for filing, to ensure the record has been properly completed. If the certificates are properly completed the local registrar shall sign as local registrar and attest to the date of filing. The local registrar shall also make a complete and accurate copy of each certificate to be filed and permanently preserved in the local registrar's office as the local record, in the manner directed by the Cabinet for Health ***and Family*** Services. When a birth or fetal death certificate filed with a local registrar indicates the residence of the mother or the deceased to be in another county, the registrar shall mail a copy of the certificate to the local registrar of the county of residence.

(5) The local registrar shall provide for voluntary acknowledgment of paternity services in accordance with 42 U.S.C. secs. 651 et seq., and transmit original certificates and affidavits of paternity to the[~~ Office of~~] Vital Statistics ***Branch*** as directed by the state registrar.

Section 433. KRS 213.046 is amended to read as follows:

(1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section. All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for in this section and in KRS 213.051, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried, the person in charge of the hospital or that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:

(a) Meet with the mother prior to the release from the hospital;

(b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;

(c) Provide written materials and oral, audio, or video materials about paternity;

(d) Provide forms necessary to voluntarily establish paternity;

(e) Provide a written and an oral, audio, or video description of the rights and responsibilities, the alternatives to, and the legal consequences of acknowledging paternity;

(f) Provide written materials and information concerning genetic paternity testing;

(g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;

(h) If the parents wish to acknowledge paternity, require the voluntary acknowledgment of paternity obtained through the hospital-based program be signed by both parents and be authenticated by a notary public;

(i) Provide the unmarried mother, and, if possible, the father, with the affidavit of paternity form;

(j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;

(k) Upon both the mother's and father's request, transmit the affidavit of paternity to the local registrar in the county in which the birth occurred; and

(l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

(4) The voluntary acknowledgment-of-paternity forms designated by the[~~ Office of~~] Vital Statistics ***Branch*** shall be the only documents having the same weight and authority as a judgment of paternity.

(5) The Cabinet for Health ***and Family*** Services shall:

(a) Provide to all public and private birthing hospitals in the state written materials and audio or video materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;

(b) Provide copies of a written description and an audio or video description of the rights and responsibilities of acknowledging paternity; and

(c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital-based program.

(6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.

(7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.

(8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.

(9) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:

(a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.

(b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.

(c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

(10) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:

(a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.

(b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

(c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be any name chosen by the mother.

(11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.

(12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

(13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

(15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.

(16) When a birth certificate is filed for any birth that occurred outside an institution, the Cabinet for Health ***and Family*** Services shall forward information regarding the need for an auditory screening for an infant and a list of options available for obtaining an auditory screening for an infant. The list shall include the Commission for Children with Special Health Care Needs, local health departments as established in KRS Chapter 212, hospitals offering obstetric services, alternative birthing centers required to provide an auditory screening under KRS 216.2970, and licensed audiologists, and shall specify the hearing methods approved by the Early Child Development Authority in accordance with KRS 216.2970.

Section 434. KRS 213.047 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall pay the sum of ten dollars ($10) to an institution for each completed affidavit-of-paternity form returned to the local registrar by the institution, pursuant to KRS 213.046, limited to the appropriated funds for the purpose of KRS 213.046.

Section 435. KRS 213.051 is amended to read as follows:

(1) The person who assumes the custody of a live-born infant of unknown parentage shall report on a form and in a manner prescribed by the state registrar within ten (10) days to the Cabinet for Health ***and Family*** Services the following information:

(a) The date and place of finding;

(b) Sex, color or race, and approximate birth date of child;

(c) Name and address of the person or institution with which the child has been placed for care;

(d) Name given to the child by the custodian of the child; and

(e) Other data as required by the state registrar to complete a birth certificate.

(2) The place where the child was found shall be entered as the place of birth.

(3) A report registered under this section shall constitute the certificate of birth for the child.

(4) If the child is identified and a certificate of birth is found or obtained, the report registered under this section shall be placed in a special file and shall not be subject to inspection except upon order of a Circuit Court.

Section 436. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the[~~ Office of~~] Vital Statistics ***Branch***. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and
2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?"

(6) The[~~ Office of~~] Vital Statistics ***Branch*** shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the[~~ Office of~~] Vital Statistics ***Branch*** for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health ***and Family*** Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health ***and Family*** Services and the local health department. The Cabinet for Health ***and Family*** Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health ***and Family*** Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

Section 437. KRS 213.078 is amended to read as follows:

(1) Any certificate of death form developed or distributed by the Cabinet for Health ***and Family*** Services shall contain the following questions:

(a) "Did the deceased have diabetes?"; and

(b) "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?"

(2) If the person completing the certificate of death fails to answer the questions identified in subsection (1) of this section, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it.

Section 438. KRS 213.101 is amended to read as follows:

Each induced termination of pregnancy which occurs in the Commonwealth, regardless of the length of gestation, shall be reported to the[~~ Office of~~] Vital Statistics ***Branch*** by the person in charge of the institution within fifteen (15) days after the end of the month in which the termination occurred. If the induced termination of pregnancy was performed outside an institution, the attending physician shall prepare and file the report within fifteen (15) days after the end of the month in which the termination occurred. The report shall collect no information which will identify the physician, woman, or man involved. The name of the person completing the report and the reporting institution shall not be subject to disclosure under KRS 61.870 to 61.884.

Section 439. KRS 213.111 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 311.300 to 311.350, any hospital or institution of higher learning may make application to any medical school incorporated within the Commonwealth for the loan of unclaimed whole dead bodies or parts thereof for educational or scientific purposes if the approval of the Cabinet for Health ***and Family*** Services has first been obtained. Approval shall be granted or denied by the Cabinet for Health ***and Family*** Services on the basis of proposed use, need, qualification of personnel, and adequacy of equipment and facilities.

(2) A special transit permit shall be obtained for the transportation of the dead bodies or parts thereof from the state registrar. Transportation and the ultimate burial of all the bodies or parts thereof shall be in accordance with the provisions of this chapter and KRS 311.340.

(3) All approved recipients shall keep a record of all bodies received by them and comply with all other regulations of the Cabinet for Health ***and Family*** Services.

Section 440. KRS 213.116 is amended to read as follows:

(1) The cabinet shall perform the collection, indexing, tabulation, and registration of data relating to marriages, divorces, and annulments. The secretary shall adopt administrative regulations to carry out the provisions of this section.

(2) Each county clerk shall on or before the tenth day of each month furnish to the state registrar, from the marriage licenses issued and the marriage certificates returned to the clerk during the previous month, the information required by the Cabinet for Health ***and Family*** Services upon forms prescribed and furnished by the cabinet. The county clerk shall collect from the applicants for a marriage license at the time the license is issued one dollar ($1), which shall constitute the clerk's

fee for forwarding the required information to the state registrar.

(3) A marriage record not filed within the time prescribed by this section may be registered in accordance with administrative regulations adopted by the cabinet.

(4) In all actions for dissolution of marriage, the petitioner, or the petitioner's attorney or legal representative, shall file, concurrently with the petition, the information requested on forms prescribed and furnished by the Cabinet for Health ***and Family*** Services. The provisions of the information shall be prerequisite to the issuance of a final decree in the matter by the court.

(5) Each Circuit Court clerk shall, within forty-five (45) days after entry of a final judgment of divorce, absolute or limited, or annulment of marriage, complete the form prescribed and furnished by the Cabinet for Health ***and Family*** Services and forward it to the state registrar.

Section 441. KRS 213.131 is amended to read as follows:

(1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital statistics, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital records or to copy or issue a copy of all or part of any record except as authorized by this chapter, by regulation, or by order of a court of competent jurisdiction. Administrative regulations adopted by the cabinet shall provide for adequate standards of security and confidentiality of vital records and shall conform to subsection (4) of this section.

(2) The state registrar shall prepare annually an alphabetical list of all persons registered as born in the preceding year. The list shall show the person's name, the mother's maiden name, and the date and county of birth. This list shall be an open record subject to inspection by the public upon request.

(3) The state registrar shall prepare annually an alphabetical list of all persons registered who die in the Commonwealth. This list shall show the name of the deceased and the date and county of death and shall be an open record subject to inspection by the public upon request.

(4) The Cabinet for Health ***and Family*** Services may authorize by regulation the disclosure of information contained in vital records for research and official administrative purposes, if:

 (a) All information identifying persons named on the certificate is withheld or removed;

 (b) The information is requested by a federal, state, county, or municipal agency of government which needs the data or information in the conduct of official duties; or

 (c) The cabinet has prepared, in writing, a statement of the conditions under which the data or records will be used and received an agreement signed by a responsible agent of the research organization agreeing to meet with and conform to the conditions.

(5) If one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with regulations which shall provide for continued safekeeping of the records.

Section 442. KRS 213.136 is amended to read as follows:

(1) The state registrar shall upon receipt of an application issue a certified copy of a vital record in the registrar's custody or a part thereof to any applicant. Each copy issued shall show the date of registration and copies issued from records marked "delayed" or "amended" shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the Commonwealth shall be provided or approved by the state registrar.

(2) A certified copy of a vital record or any part thereof, issued in accordance with subsection (1) of this section, shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein. The evidentiary value of a certificate or record which has been amended shall be determined by the judicial or administrative body, or official before which the certificate is offered as evidence.

(3) The federal agency responsible for national vital statistics may be furnished copies or data from the system of vital statistics for national statistics, if the federal agency shares in the cost of collecting, processing, and transmitting the data, and if the data is not used for other than statistical purposes by the federal agency unless so authorized by the cabinet.

(4) Federal, state, local, and other public or private agencies may, upon request, be furnished copies or data from the system of vital statistics for statistical or administrative purposes upon terms or conditions as may be prescribed by regulation if the copies or data are not used for purposes other than those for which they were requested without prior permission of the cabinet. No information other than statistical data shall be provided for commercial purposes.

(5) The cabinet may, by agreement, transmit copies of records and other reports required by this chapter to offices of vital statistics outside the Commonwealth when the records or other reports relate to residents of those jurisdictions or persons born in those jurisdictions. The agreement shall require that the copies be used for statistical and administrative purposes only and the agreement shall further provide for the retention and disposition of the copies. Copies received by the[~~ Office of~~] Vital Statistics ***Branch*** from offices of vital statistics in other states shall be handled in the same manner as prescribed in this section.

(6) No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a vital record

except as authorized in this section or regulation adopted hereunder.

Section 443. KRS 213.156 is amended to read as follows:

The provisions of this chapter shall apply to all certificates of birth, death, marriage, divorce, fetal death and induced termination of pregnancy previously received by the[~~ Office of~~] Vital Statistics ***Branch*** and in the custody of the state registrar or any local registrar.

Section 444. KRS 213.161 is amended to read as follows:

(1) In order to obtain information which may be useful to research organizations studying the causes and incidence of the sudden infant death syndrome, a program is hereby established in the Cabinet for Health ***and Family*** Services. The purpose of this program shall be to obtain factual information concerning the characteristics, incidence, and distribution of the sudden infant death syndrome throughout the Commonwealth and to provide a means of public education concerning any research findings which may lead to the possible means of prevention, early identification, and treatment of children susceptible to the sudden infant death syndrome.

(2) In instances where an ostensibly healthy child dies suddenly and unexpectedly with no known or apparent cause as determined by a physician or a coroner, an autopsy with the written approval of the parents or legal guardian of the child shall be performed within forty-eight (48) hours and the results reported to the cabinet and to the parents or legal guardian of the child.

(3) In order to implement the provisions of this section, the secretary of the Cabinet for Health ***and Family*** Services shall:

(a) Promulgate administrative regulations as may be necessary in order to obtain in proper form all information relating to the occurrence of sudden infant deaths which is relevant and appropriate for the establishment of a reliable statistical index of the incidence, distribution, and characteristics of cases of the sudden infant death syndrome;

(b) Collect such factual information from physicians, coroners, medical examiners, hospitals, and public health officials who have examined any child known or believed to have the sudden infant death syndrome;

(c) Make such factual information available to physicians, coroners, medical examiners, hospitals, public health officials, and educational and institutional organizations conducting research as to the causes and incidence of the sudden infant death syndrome;

(d) Cause appropriate counseling services to be established and maintained for families affected by the occurrence of the sudden infant death syndrome; and

(e) Conduct educational programs to inform the general public of any research findings of educational and institutional organizations which may lead to the possible means of prevention, early identification, and treatment of the sudden infant death syndrome.

Section 445. KRS 213.991 is amended to read as follows:

(1) Any person who shall cremate or cause to be cremated or transport or cause to be transported for the purpose of cremation, the body of any person whose death occurs in the Commonwealth, without first obtaining from the coroner of the county in which death occurred, authorization for the transportation and cremation shall be guilty of a Class D felony.

(2) Any person shall be guilty of a Class A misdemeanor who:

(a) Willfully and knowingly makes any false statement in a certificate, record, or report required by this chapter or in an application for an amendment thereof or in an application for a certified copy of a vital record or who willfully and knowingly supplies false information intending that such information be used in the preparation of any report, record or certificate or amendment thereof;

(b) Without lawful authority and with the intent to deceive, makes counterfeits, alters, amends or mutilates any certificate, record or report required by this chapter or a certified copy of such certificate, record or report;

(c) Willfully and knowingly obtains, possesses, uses, sells, furnishes or attempts to obtain, possess, use, sell or furnish to another, for any purpose of deception, any certificate, record or report required by this chapter or certified copy thereof so made, counterfeited, altered, amended, mutilated or which is false in whole or in part or which relates to the birth of another person whether living or deceased;

(d) As an employee of the[~~ Office of~~] Vital Statistics ***Branch*** or any office designated under KRS 213.036, willfully and knowingly furnishes or processes a certificate of birth or certified copy of a certificate of birth with the knowledge or intention that it may be used for the purpose of deception; or

(e) Without lawful authority possesses any certificate, record, or report required by this chapter or a copy or certified copy of such certificate, record, or report knowing same to have been stolen or otherwise unlawfully obtained.

(3) Any person shall be guilty of a Class B misdemeanor who:

(a) Willfully and knowingly refuses to provide information required by this chapter or administrative regulations adopted hereunder;

(b) Willfully and knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided in this chapter;

(c) Willfully and knowingly neglects or violates any of the provisions of this chapter or refuses to perform any of the duties imposed upon him or her by this chapter; or

(d) As an employee of the~~[Office of]~~ Vital Statistics ***Branch*** or any office designated under KRS 213.036, willfully and knowingly violates the confidentiality provisions of KRS 213.131.

(4) Repeated failure to comply with the requirements of this chapter shall be sufficient cause for the cabinet to file a report with the applicable medical, dental, chiropractic, or funeral director licensure board citing the omissions of lawful duty and requesting that appropriate disciplinary action be taken.

Section 446. KRS 214.010 is amended to read as follows:

Every physician shall report all diseases designated by regulation of the Cabinet for Health ***and Family*** Services as reportable which are under his special treatment to the local board of health of his county, and every head of a family shall report any of said diseases, when known by him to exist in his family, to the local board or to some member thereof in accordance with the regulations of the Cabinet for Health ***and Family*** Services.

Section 447. KRS 214.020 is amended to read as follows:

When the Cabinet for Health ***and Family*** Services believes that there is a probability that any infectious or contagious disease will invade this state, it shall take such action and adopt and enforce such rules and regulations as it deems efficient in preventing the introduction or spread of such infectious or contagious disease or diseases within this state, and to accomplish these objects shall establish and strictly maintain quarantine and isolation at such places as it deems proper.

Section 448. KRS 214.034 is amended to read as follows:

Except as otherwise provided in KRS 214.036:

(1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child immunized against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, mumps, hepatitis B, and haemophilis influenzae disease in accordance with testing and immunization schedules established by regulations of the Cabinet for Health ***and Family*** Services. Additional immunizations may be required by the Cabinet for Health ***and Family*** Services through the promulgation of an administrative regulation pursuant to KRS Chapter 13A if recommended by the United States Public Health Service or the American Academy of Pediatrics. All parents, guardians, and other persons having care, custody, or control of any child shall also have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health ***and Family*** Services promulgated under KRS Chapter 13A. The persons shall also have booster immunizations administered to the child in accordance with the regulations of the Cabinet for Health ***and Family*** Services.

(2) A local health department may, with the approval of the Department of Public Health, require all first-time enrollees in a public or private school within the health department's jurisdiction to be tested for tuberculosis prior to entering school. Following the first year of school, upon an epidemiological determination made by the state or local health officer in accordance with administrative regulations promulgated by the Cabinet for Health ***and Family*** Services, all parents, guardians, and other persons having care, custody, or control of any child shall have the child tested for tuberculosis, and shall have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health ***and Family*** Services. Nothing in this section shall be construed to require the testing for tuberculosis of any child whose parent or guardian is opposed to such testing, and who objects by a written sworn statement to the testing for tuberculosis of the child on religious grounds. However, in a suspected case of tuberculosis, a local health department may require testing of this child.

(3) All public or private primary or secondary schools, and preschool programs shall require a current immunization certificate for any child enrolled as a regular attendee, as provided by administrative regulation of the Cabinet for Health ***and Family*** Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.

(4) All public or private primary schools shall require a current immunization certificate for hepatitis B for any child enrolled as a regular attendee in the sixth grade, as provided by administrative regulation of the Cabinet for Health ***and Family*** Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance. This provision shall sunset following the 2008-2009 school year unless otherwise authorized by the General Assembly.

(5) For each child cared for in a day-care center, certified family child-care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for Health ***and Family*** Services, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.

(6) Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day-care centers, certified family child-care homes, or other licensed facilities which care for children.

Section 449. KRS 214.036 is amended to read as follows:

Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require the testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his attending physician, such testing or immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and

214.990 be construed to require the immunization of any child whose parents are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. Provided, however, that in the event of an epidemic in a given area, the Cabinet for Health ***and Family*** Services may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

Section 450. KRS 214.155 is amended to read as follows:

(1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child and cause to have administered to every such infant or child in its or his care tests for heritable disorders including, but not limited to, phenylketonuria (PKU), sickle cell disease, congenital hypothyroidism, and galactosemia in accordance with rules or regulations prescribed by the secretary of the Cabinet for Health ***and Family*** Services. Testing, recording, and reporting of the results of newborn screening tests shall be performed at the times and in the manner as may be prescribed by the secretary of the Cabinet for Health ***and Family*** Services or the secretary's designee. The secretary of the Cabinet for Health ***and Family*** Services shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for newborn screening tests.

(2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of his or her child on that ground.

(3) The cabinet shall make available the names and addresses of health care providers including, but not limited to, physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for a newborn screening test.

(4) Contingent upon the receipt of federal grants or appropriations by the General Assembly of the Commonwealth of Kentucky, the tests for heritable disorders for newborns listed in subsection (1) of this section shall be expanded to include, but not be limited to, medium-chain acyl-CoA dehydrogenase deficiency (MCAD), very long-chain acyl-CoA deficiency (VLCAD), short-chain acyl-CoA dehydrogenase deficiency (SCAD), maple syrup urine disease, congenital adrenal hyperplsia, biotinidase disorder, and cystic fibrosis.

(5) The secretary for health ***and family*** services or his or her designee shall apply for any federal grants available through the Public Health Service Act to expand or improve programs to provide screening, counseling, testing, or specialty services for newborns or children at risk for heritable disorders.

(6) The secretary for health ***and family*** services or his or her designee shall apply for any federal grants available through the Public Health Service Act to evaluate the effectiveness of newborn screening, counseling, or health care services in reducing the morbidity and mortality caused by heritable disorders in newborns and children.

Section 451. KRS 214.160 is amended to read as follows:

(1) Every physician and every other person legally permitted to engage in attendance upon a pregnant woman in this state shall take or cause to be taken from the woman a specimen of blood for serological test for syphilis as soon as he is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. If the woman is in labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen at that time, the specimen shall be obtained within ten (10) days after delivery. The specimen of blood shall be submitted to the laboratory of the Cabinet for Health ***and Family*** Services or a laboratory approved by the cabinet for the purpose of having made a serological test for syphilis. The test shall be of a type approved by the Cabinet for Health ***and Family*** Services.

(2) The Cabinet for Health ***and Family*** Services shall, as often as necessary, publish a list of the five (5) most frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this state may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within eight (8) hours after delivery to determine whether there is evidence that she has ingested alcohol, a controlled substance, or a substance identified on the list provided by the cabinet, or if the woman has obstetrical complications that are a medical indication of possible use of any such substance for a nonmedical purpose.

(3) Any physician or person legally permitted to engage in attendance upon a pregnant woman may administer to each newborn infant born under that person's care a toxicology test to determine whether there is evidence of prenatal exposure to alcohol, a controlled substance, or a substance identified on the list provided by the Cabinet for Health ***and Family*** Services, if the attending person has reason to believe, based on a medical assessment of the mother or the infant, that the mother used any such substance for a nonmedical purpose during the pregnancy.

(4) The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant, as defined under KRS 600.020(1), has occurred and whether investigation by the Cabinet for Health ***and Family*** Services is necessary.

(5) No prenatal screening for alcohol or other substance abuse or positive toxicology finding shall be used as prosecutorial evidence.

(6) No person shall conduct or cause to be conducted any toxicological test pursuant to this section on any pregnant woman

without first informing the pregnant woman of the purpose of the test.

(7) Every physician or other person legally permitted to engage in attendance upon a pregnant woman in the Commonwealth shall take or cause to be taken from the woman a specimen of blood which shall be submitted for the purpose of serologic testing for the presence of hepatitis B surface antigen to a laboratory certified by the United States Department for Health and Human Services pursuant to Section 333 of the Public Health Service Act (42 U.S.C. sec. 263a), as revised by the Clinical Laboratory Improvement Amendments (CLIA), Pub.L. 100-578.

Section 452. KRS 214.170 is amended to read as follows:

Every physician or other person who takes or causes to be taken from a woman in pregnancy, or suspected pregnancy, a blood specimen for serological tests for syphilis, shall identify the specimen as being from a pregnant woman submitting it for tests. The laboratory shall report the result of the test if reactive on forms prepared and furnished by the Cabinet for Health ***and Family*** Services to the Cabinet for Health ***and Family*** Services not later than one (1) week after the examination is made.

Section 453. KRS 214.175 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services may conduct periodic anonymous surveys to determine the prevalence within the Commonwealth of drug and alcohol use during pregnancy. These periodic surveys may include, but are not limited to, toxicology tests to determine the presence of alcohol, controlled substances, or other drugs which have not been prescribed due to medical necessity.

(2) All hospitals and any other health facilities licensed pursuant to KRS Chapter 216B which provide for obstetrical services, including delivery of newborn infants, shall, as a condition of licensure, participate in any periodic surveys conducted by the Cabinet for Health ***and Family*** Services for the purposes of determining the prevalence of alcohol or other substance abuse among pregnant women and newborn infants.

(3) Any surveys conducted pursuant to this section shall be conducted according to guidelines established by the Cabinet for Health ***and Family*** Services. The toxicology test may be performed without a physician's order and without patient or parental consent. For the purpose of this section any toxicology test performed shall be considered medically necessary.

(4) The results of any individual toxicology tests performed pursuant to this section shall remain confidential and shall only be released to the Cabinet for Health ***and Family*** Services. Any results shall be collected and compiled in aggregate form without the name of the hospital, patient, or other means of identifying the individual subject of the test.

(5) No test result obtained pursuant to this section shall be admissible in any court or other hearing as evidence in any proceeding, criminal or civil, against the individual subject of the test.

(6) No hospital shall incur any liability, except for negligence, for performing any test required or authorized under KRS 214.160 and 214.175 or for reporting the result of the test pursuant to any administrative regulation promulgated by the Cabinet for Health ***and Family*** Services under KRS Chapter 13A in accordance with this section.

(7) The cabinet may use any state appropriation and any gifts, grants, or federal funds that become available for the purposes of implementing the provisions of this section.

Section 454. KRS 214.181 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person who has obtained or has knowledge of a test result pursuant to this section shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;
2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;
3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;
4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;
5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;
6. A health facility or health-care provider which procures, processes, distributes, or uses:
    a. A human body part from a deceased person, with respect to medical information regarding that person; or
    b. Semen provided prior to the effective date of this section for the purpose of artificial insemination;
7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;
8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;
9. A person allowed access by a court order that is issued in compliance with the following provisions:
    a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human-immunodeficiency-virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;
    b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;
    c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a party;
    d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;
    e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing that includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Health ***and Family*** Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 212. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate.

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test.

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the name and other information specified under KRS 214.645 shall be reported to the cabinet. The cabinet shall continue to provide for anonymous testing and counseling.

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other private or public facility shall be established for the primary purpose of conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet; and

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he or she does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing

persons for the human immunodeficiency virus.

Section 455. KRS 214.185 is amended to read as follows:

(1) Any physician, upon consultation by a minor as a patient, with the consent of such minor may make a diagnostic examination for venereal disease, pregnancy, alcohol or other drug abuse or addiction and may advise, prescribe for, and treat such minor regarding venereal disease, alcohol and other drug abuse or addiction, contraception, pregnancy, or childbirth, all without the consent of or notification to the parent, parents, or guardian of such minor patient, or to any other person having custody of such minor patient. Treatment under this section does not include inducing of an abortion or performance of a sterilization operation. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.

(2) Any physician may provide outpatient mental health counseling to any child age sixteen (16) or older upon request of such child without the consent of a parent, parents, or guardian of such child.

(3) Notwithstanding any other provision of the law, and without limiting cases in which consent may be otherwise obtained or is not required, any emancipated minor or any minor who has contracted a lawful marriage or borne a child may give consent to the furnishing of hospital, medical, dental, or surgical care to his or her child or himself or herself and such consent shall not be subject to disaffirmance because of minority. The consent of the parent or parents of such married or emancipated minor shall not be necessary in order to authorize such care. For the purpose of this section only, a subsequent judgment of annulment of marriage or judgment of divorce shall not deprive the minor of his adult status once obtained. The provider of care may look only to the minor or spouse for payment for services under this section unless other persons specifically agree to assume the cost.

(4) Medical, dental, and other health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the professional's judgment, the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.

(5) The consent of a minor who represents that he may give effective consent for the purpose of receiving medical, dental, or other health services but who may not in fact do so, shall be deemed effective without the consent of the minor's parent or legal guardian, if the person rendering the service relied in good faith upon the representations of the minor.

(6) The professional may inform the parent or legal guardian of the minor patient of any treatment given or needed where, in the judgment of the professional, informing the parent or guardian would benefit the health of the minor patient.

(7) Except as otherwise provided in this section, parents, the Cabinet for Health ***and Family*** Services, or any other custodian or guardian of a minor shall not be financially responsible for services rendered under this section unless they are essential for the preservation of the health of the minor.

Section 456. KRS 214.310 is amended to read as follows:

(1) Any police officer or member of any municipal board of health, or other city official, who has reason to believe that the provisions of KRS 214.280 to 214.300 have been or are being violated, shall give notice to the Cabinet for Health ***and Family*** Services.

(2) Any individual who has reason to believe that the provisions of KRS 214.280 to 214.300 have been or are being violated may present the relevant facts to the board of health or any of its deputies. It shall then be the duty of the board of health to make an investigation of the facts, and if the board is of the opinion that there is or has been a violation it shall prosecute the person guilty thereof.

(3) Any individual may institute proceedings to enforce KRS 214.280 to 214.300 and to punish violations of their provisions.

Section 457. KRS 214.410 is amended to read as follows:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services; and

(2) "Sexually transmitted disease" means syphilis, gonorrhea, chancroid, granuloma inguinale, genital herpes, nongonococcal urethritis, mucopurulent cervicitis, acquired immunodeficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, chlamydia trachomatis infections, and any other sexually transmitted disease designated by the cabinet under the provisions of KRS Chapter 13A.

Section 458. KRS 214.420 is amended to read as follows:

(1) The General Assembly hereby declares that confidentiality is essential for the proper administration and operation of sexually transmitted disease control activities in this state and that the principle of confidentiality must remain inviolate.

(2) All information, records, and reports in the possession of local health departments or the Cabinet for Health ***and Family*** Services and which concern persons infected with or suspected of being infected with or tested for or identified in an epidemiologic investigation for sexually transmitted disease are hereby declared to be strictly confidential and only personnel of local health departments and the Cabinet for Health ***and Family*** Services who are assigned to sexually transmitted disease control activities shall have access to such information, records, and reports.

(3) Nothing in this section shall be construed as preventing:

(a) The release of medical information to the physician retained by the person infected with or suspected of being infected with a sexually transmitted disease;

(b) The release of medical or epidemiological data or information for statistical purposes in a manner so that no individual person can be identified;

(c) The release of medical information with the written consent of all persons identified in the information to be released;

(d) The release of medical or epidemiological information necessary to enforce the provision of the rules and regulations of the Cabinet for Health ***and Family*** Services, issued pursuant to KRS Chapter 13A, relating to the control and treatment of sexually transmitted disease; and

(e) The release of medical information made to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party.

Section 459. KRS 214.452 is amended to read as follows:

The following policies shall apply to blood establishments and to donors of blood:

(1) All blood establishments within the Commonwealth shall be licensed by the United States Food and Drug Administration and remain in compliance with all applicable federal regulations. The Cabinet for Health ***and Family*** Services shall, under administrative regulations promulgated pursuant to KRS Chapter 13A, establish fees necessary to cover the cost of and adhere to a schedule for regular inspection, by the Office of the Inspector General of the Cabinet for Health ***and Family*** Services, of all blood establishments within the Commonwealth to ascertain whether each blood establishment is licensed and in compliance with KRS 214.450 to 214.464 and KRS 214.468. The Office of the Inspector General shall commence its inspection program of blood establishments no later than September 1, 1994. The Office of the Inspector General of the Cabinet for Health ***and Family*** Services shall annually, by no later than September 1, submit a written report to the Interim Joint Committee on Health and Welfare on the compliance of blood establishments with KRS 214.450 to 214.464 and KRS 214.468.

(2) All blood establishments shall test blood for the human immunodeficiency virus and for any known causative agent for any blood-borne communicable disease, using tests approved and required, for purposes of blood donation, by the United States Food and Drug Administration.

(3) It shall be the duty of the administrator of any blood establishment which collects blood for the purpose of distributing to another health service, health facility, or health-care provider the blood for transfusion to:

(a) Secure donor consent and a signed written risk factor history and donor consent form for each potential paid or volunteer donor for the purpose of determining if the potential donor is at high risk for infection with the human immunodeficiency virus, or has tested confirmatory positive for infection with the human immunodeficiency virus; or has acquired immune deficiency syndrome; or has tested confirmatory positive for infection with any causative agent for acquired immune deficiency syndrome recognized by the United States Centers for Disease Control; or has a blood-borne communicable disease;

(b) Provide a means for a potential donor to self-elect not to donate blood;

(c) Refuse donation or sale of blood by persons at high risk for infection with the human immunodeficiency virus, or who have been medically diagnosed as having acquired immune deficiency syndrome, or who have tested confirmatory positive for infection with the human immunodeficiency virus, or who have a blood-borne communicable disease;

(d) Post a sign in the blood establishment which is visible to all potential donors and which states: "Persons with acquired immune deficiency syndrome (AIDS), or who have tested confirmatory positive for infection with the human immunodeficiency virus (HIV), or who have a blood-borne communicable disease or who have one (1) or more risk factors for the human immunodeficiency virus as determined by the United States Centers for Disease Control, are prohibited by law from donating or selling blood. Persons violating the law are guilty of a Class D felony. ASK STAFF OF THIS BLOOD ESTABLISHMENT."

(4) The provisions of this section shall not be construed to impose requirements which are in conflict with donor eligibility requirements set out in United States Food and Drug Administration or American Association of Blood Banks standards.

Section 460. KRS 214.464 is amended to read as follows:

(1) (a) Untested blood may be transfused only in an emergency situation in which the attending physician determines a patient is in imminent danger of death or serious physical injury and no tested and labeled blood as set forth under KRS 214.458 is readily available to alleviate the emergency situation; provided, however, that the attending physician shall obtain specific prior consent for the transfusion from the patient in the emergency situation or if the patient's condition renders the patient incapable of giving consent, seek from the next of kin of the patient, if available, prior informed consent to transfuse any untested blood. For purposes of this section, the patient's "next of kin" means, in the following order;

1. The spouse of the patient;

2. If there is none, then the mother or father of the patient;

3. If there is none, then any adult son or daughter of the patient; or

4. If there is none, then any brother or sister of the patient.

(b) Physical evidence of consent shall become a part of the patient's permanent medical record.

(2) Blood establishments may release untested blood, collected under standards set forth in KRS 214.452, at the request of a physician, or health facility, or health service in an emergency as provided under this section. If blood has not been tested, the test shall be performed as soon after the transfusion as possible. If the blood subsequently tests positive for any blood-borne communicable disease, the patient's attending physician shall be immediately notified. The attending physician shall, in turn, notify the patient of the test results. The patient or next of kin shall indicate notification of receipt of the test results and any offer of treatment or referral to another health-care provider on a form provided by the health facility or health service and approved by the Cabinet for Health ***and Family*** Services.

Section 461. KRS 214.550 is amended to read as follows:

As used in KRS 214.552 to 214.556:

(1) "Department" means the Department for Public Health of the Cabinet for Health ***and Family*** Services.

(2) "Fund" means the breast cancer screening fund.

(3) "Screening" means the conduct of screening mammography for the purpose of ascertaining the existence of any physiological abnormality which might be indicative of the presence of disease.

Section 462. KRS 214.554 is amended to read as follows:

(1) There is established within the department a Breast Cancer Screening Program for the purposes of:

(a) Reducing morbidity and mortality from breast cancer in women through early detection and treatment; and

(b) Making breast cancer screening services of high quality and reasonable cost available to women of all income levels throughout the Commonwealth and to women whose economic circumstances or geographic location limits access to breast cancer screening facilities.

(2) Services provided under the Breast Cancer Screening Program may be undertaken by private contract for services or operated by the department and may include the purchase, maintenance, and staffing of a truck, a van, or any other vehicle suitably equipped to perform breast cancer screening. The program may also provide referral services for the benefit of women for whom further examination or treatment is indicated by the breast cancer screening.

(3) The department may adopt a schedule of income-based fees to be charged for the breast cancer screening. The schedule shall be determined to make screening available to the largest possible number of women throughout the Commonwealth. The department shall, where practical, collect any available insurance proceeds or other reimbursement payable on behalf of any recipient of a breast cancer screening under KRS 214.552 to 214.556 and may adjust the schedule of fees to reflect insurance contributions. All fees collected shall be credited to the fund.

(4) The department may accept any grant or award of funds from the federal government or private sources for carrying out the provisions of KRS 214.552 to 214.556.

(5) For the purpose of developing and monitoring the implementation of guidelines for access to and the quality of the services of the Breast Cancer Screening Program, there is hereby created a Breast Cancer Advisory Committee to the commissioner of the Department for Public Health which shall include the directors of the James Graham Brown Cancer Center and the Lucille Parker Markey Cancer Center, the director of the Kentucky Cancer Registry, the[~~ executive~~] director of the ***Division***[~~Office~~] of Women's Physical and Mental Health, one (1) radiologist with preference given to one who has been fellowship-trained in breast diagnostics and who shall be appointed by the Governor, one (1) representative of the Kentucky Office of Rural Health appointed by the Governor, one (1) representative of the Kentucky Commission on Women appointed by the Governor, and at least three (3) women who have had breast cancer and who shall be appointed by the Governor.

(6) The commissioner of the Department for Public Health, in consultation with the Breast Cancer Advisory Committee, shall annually, but no later than November 1 of each year, make a report to the Governor, the Legislative Research Commission, and the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare on the:

(a) Implementation and outcome from the Breast Cancer Screening Program including, by geographic region, numbers of persons screened, numbers of cancers detected, referrals for treatment, and reductions in breast cancer morbidity and mortality;

(b) Development of quality assurance guidelines, including timetables, for breast cancer screening under this section, and monitoring of the manner and effect of implementation of those guidelines; and

(c) Funds appropriated, received, and spent for breast cancer control by fiscal year.

Section 463. KRS 214.556 is amended to read as follows:

(1) There is hereby established within the Kentucky cancer program the Kentucky Cancer Registry and the cancer patient data management system for the purpose of providing accurate and up-to-date information about cancer in Kentucky and facilitating the evaluation and improvement of cancer prevention, screening, diagnosis, therapy, rehabilitation, and community care activities for citizens of the Commonwealth. The cancer patient data management system shall be administered by the Lucille Parker Markey Cancer Center.

(2) Each licensed health facility which provides diagnostic services, or diagnostic services and treatment, or treatment to cancer patients shall report to the Kentucky Cancer Registry, through the cancer patient data management system and in a format prescribed by the Kentucky Cancer Registry, each case of cancer seen at that health facility. Failure to comply may be cause for assessment of an administrative fine for the health facility, the same as for violation of KRS 216B.250.

(3) Each health facility shall grant to the cancer registry access to all records which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or status of any identified cancer patient. Hospitals actively participating and enrolled in the cancer patient data management system of the Kentucky Cancer Program as of July 13, 1990, shall be considered to be in compliance with this section. The Lucille Parker Markey Cancer Center shall provide staff assistance in compiling and reporting required information to hospitals which treat a low volume of patients.

(4) No liability of any kind or character for damages or other relief shall arise or be enforced against any licensed health facility by reason of having provided the information or material to the Kentucky Cancer Registry pursuant to the requirements of this section.

(5) The identity of any person whose condition or treatment has been reported to the Kentucky Cancer Registry shall be confidential, except that:

(a) The Kentucky Cancer Registry may exchange patient-specific data with any other cancer control agency or clinical facility for the purpose of obtaining information necessary to complete a case record, but the agency or clinical facility shall not further disclose such personal data; and

(b) The Kentucky Cancer Registry may contact individual patients if necessary to obtain follow-up information which is not available from the health facility.

(6) All information, interviews, reports, statements, memoranda, or other data furnished by reason of this section and any findings or conclusions resulting from those studies shall be privileged.

(7) The Kentucky Cancer Registry shall make periodic reports of its data and any related findings and recommendations to the Legislative Research Commission, the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare, the Governor, the Cabinet for Health ***and Family*** Services, the reporting health facility, and other appropriate governmental and nongovernmental cancer control agencies whose intent it is to reduce the incidence, morbidity, and mortality of cancer. The Kentucky Cancer Registry may conduct analyses and studies as are indicated to advance cancer control in the Commonwealth.

Section 464. KRS 214.605 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall establish a program to educate the public about the threat of acquired immunodeficiency syndrome.

(2) The Acquired Immunodeficiency Syndrome Education Program shall:

(a) Be designed to reach all segments of the Commonwealth's population;

(b) Contain special components designed to reach minority groups within the state;

(c) Impart knowledge to the public about methods of transmission of acquired immunodeficiency syndrome and methods of prevention;

(d) Educate the public about transmission risks in social, employment, and educational situations;

(e) Educate health-care workers and health facilities' employees about methods of transmission and prevention in their unique workplace environments;

(f) Contain special components designed to reach persons who may frequently engage in behaviors placing them at a high risk for acquiring acquired immunodeficiency syndrome;

(g) Provide information and consultation to state agencies to educate all state employees;

(h) Provide information and consultation to state and local agencies to educate law enforcement and correctional personnel and inmates;

(i) Provide information and consultation to local governments to educate local government employees;

(j) Make information available to private employers and encourage them to distribute this information to their employees; and

(k) Contain special components which emphasize appropriate behavior and attitude change.

(3) The program designed by the Cabinet for Health ***and Family*** Services shall utilize all appropriate forms of the media and shall identify sources of educational materials that can be used by businesses, schools, and health-care providers in the regular course of their business.

(4) The department may contract with other persons in the design, development, and distribution of the components of the education program.

Section 465. KRS 214.610 is amended to read as follows:

(1) (a) The Cabinet for Health ***and Family*** Services or the licensing board or certifying entity, subject to the board's or entity's discretion, shall approve appropriate educational courses on the transmission, control, treatment, and

prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome, that may address appropriate behavior and attitude change, to be completed as specified in the respective chapters by each person licensed or certified under KRS Chapters 311, 311A, 312, 313, 314, 315, 320, 327, 333, and 335. Each licensing board or certifying entity shall have the authority to determine whether it shall approve courses or use courses approved by the cabinet. Completion of the courses shall be required at the time of initial licensure or certification in the Commonwealth, as required under KRS 214.615 and 214.620, and shall not be required under this section or any other section more frequently than one (1) time every ten (10) years thereafter, unless the licensing board or certifying entity specifically requires more frequent completion under administrative regulations promulgated in accordance with KRS Chapter 13A.

(b) The Department for Public Health shall publish on its Web site the current informational resources for the development of the educational courses or programs. To the extent possible, the educational courses or programs under this subsection shall:

1. Include changes in Kentucky law affecting HIV testing and reporting; confidentiality and privacy of HIV-related data, information, and reports; and advances in treatment protocols, intervention protocols, coordination of services, and other information deemed important by the Department for Public Health and the Centers for Disease Control and Prevention (CDC);
2. Inform all professions involved with or affected by the birthing process about the importance of HIV testing of pregnant women and the probability of preventing perinatal transmission of HIV with appropriate treatment; and
3. Update all health care professionals identified under paragraph (a) of this subsection requesting information about the potential involvement of their occupation in the treatment or prevention of blood-borne pathogens with the latest CDC guidelines on occupational exposure to HIV and other blood-borne pathogens.

(2) Each licensee or certificate holder shall submit confirmation on a form provided by the cabinet of having completed the course by July 1, 1991, except persons licensed under KRS Chapters 314 and 327 for whom the completion date shall be July 1, 1992.

Section 466. KRS 214.620 is amended to read as follows:

(1) The boards of the professions in KRS Chapter 311A and KRS 311.450, 311.571, 311.601, 312.085, 312.175, 313.040, 313.080, 313.290, 313.305, 314.041, 314.042, 314.051, 314.073, 315.050, 315.065, 320.250, 320.280, 327.050, 333.100, 333.190, 335.080, 335.090, 335.100, and 335.150, and the Cabinet for Health ***and Family*** Services shall begin planning for the implementation of those sections listed above which require, as a part of initial licensure or certification, applicants for certain specified professions to complete an educational course on the transmission, control, treatment, and prevention of human immunodeficiency virus and acquired immunodeficiency syndrome. The planning shall include collecting information from the facilities and programs which educate and train the licensed professionals affected by the licensure requirements of those sections listed above and shall also include developing administrative regulations for the implementation of the licensure requirements.

(2) The Cabinet for Health ***and Family*** Services shall develop, if requested by a licensing board or certifying entity, instructional material on the human immunodeficiency virus, including information related to methods of transmission, education, and infection control. The materials developed under this section shall be provided to persons licensed under KRS Chapters 317 and 317A. Costs of production and distribution of the instructional materials shall be wholly assumed from the fees assessed by the licensing boards which regulate the professionals who are provided with educational materials under this section. To expeditiously and economically develop, produce, and distribute the instructional material required under this section, the Cabinet for Health ***and Family*** Services shall consult with the professional associations of professions to determine whether suitable instructional materials already exist that may be lawfully reproduced or reprinted.

(3) The Cabinet for Human Resources shall require that, by July 1, 1992, all employees of health facilities defined in KRS 216B.015 shall have completed an educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change except for those employees who shall have completed such a course as required for their professional licensure or upon evidence that the employee received such a course from another health facility where the employee was previously employed.

(4) Information on the human immunodeficiency virus infection shall be presented to any person who receives treatment at any hospital, however named, skilled-nursing facilities, primary-care centers, rural health clinics, outpatient clinics, ambulatory-care facilities, ambulatory surgical centers, and emergency-care centers licensed pursuant to KRS Chapter 216B. The information shall include but not be limited to methods of transmission and prevention and appropriate behavior and attitude change.

(5) Notwithstanding any provision of law to the contrary, the licensing board or certifying entity of any profession required to complete the course described in subsection (1) or (2) of this section shall have the discretion to develop and approve its own instructional course to be required for the profession under the jurisdiction of the respective licensing board or certifying entity.

Section 467. KRS 214.625 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

  (a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

  (b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

  (b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

  (c) No person who has obtained or has knowledge of a test result pursuant to this section shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

    1. The subject of the test or the subject's legally authorized representative;

    2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

    3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

    4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;

    5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

    6. A health facility or health-care provider which procures, processes, distributes, or uses:

      a. A human body part from a deceased person, with respect to medical information regarding that person; or

      b. Semen provided prior to July 13, 1990, for the purpose of artificial insemination;

    7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

    8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;

    9. A parent, foster parent, or legal guardian of a minor; a crime victim; or a person specified in KRS 438.250;

    10. A person allowed access by a court order which is issued in compliance with the following provisions:

      a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;

c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice; and

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Health ***and Family*** Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate.

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test.

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the name and other information specified in KRS 214.645 shall be reported to the cabinet. The cabinet shall continue to provide for anonymous testing and counseling.

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet; and

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he or she does not advertise or hold himself or herself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section and KRS 304.12-013, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 468. KRS 214.640 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services may create, to the extent permitted by available staffing and funding, an HIV and AIDS Advisory Council to consist of no more than thirty (30) members, for the purpose of advising the cabinet on the formulation of HIV and AIDS policy. Membership on the committee shall be drawn from the following:

(a) The commissioner of the Department for Public Health;

(b) The commissioner of the Department for Medicaid Services;

(c) Representatives of other state agencies or boards that provide services to clients of HIV or AIDS services or that provide education to professionals who come into contact with HIV or AIDS clients, as designated by the Governor;

(d) Physicians representing different geographic regions of the state;

(e) HIV or AIDS clients; and

(f) Representatives of community-based organizations from different geographic regions of the state.

To the extent possible, membership of the council shall reflect the epidemiology of the HIV/AIDS epidemic.

(2) The members designated under paragraphs (a) to (c) of subsection (1) of this section shall serve for the duration of service in their offices, subject to removal for cause by the Governor. These members shall not be paid for attending council meetings but may receive reimbursement of expenses.

(3) The members serving under paragraphs (d) to (f) of subsection (1) of this section shall be appointed by the cabinet from lists submitted by the appropriate licensing entities of the profession involved, by the cabinet, and by community-based organizations. These members shall serve for a term of four (4) years and may be reappointed, but the members shall not serve for more than two (2) consecutive terms.

(4) The chair of the council shall be elected from the membership serving under paragraphs (d) to (f) of subsection (1) of this section.

(5) The functions of the council shall include but shall not be limited to:

(a) Reporting its findings to the cabinet and monitoring the responsiveness of the cabinet to insure that the council's recommendations are being followed;

(b) Exploring the feasibility, design, cost, and necessary funding for centers of excellence to deliver comprehensive, coordinated medical and related care to all people with HIV or AIDS in the Commonwealth based on national clinical guidelines and practice standards. Coordinated medical care shall include but not be limited to access to:

1. AIDS primary care;
2. Drug therapy;
3. Specialists' care, including psychiatric and other mental health providers;

4. Case management services;

5. Dental care;

6. Chemical dependency treatment; and

7. Basic needs, including but not limited to housing and food;

(c) Assessing resources and gaps in services provided for persons with HIV or AIDS;

(d) Subdividing into necessary subcommittees. One (1) subcommittee may be formed that will consist solely of persons living with HIV or AIDS. This subcommittee shall make those recommendations as it deems necessary to the council, including recommendations on effective peer-based prevention programs; and

(e) Reporting its findings and recommendations to the General Assembly and the Interim Joint Committee on Health and Welfare by September 1, 2001, and by September 1 of each year thereafter.

Section 469. KRS 214.645 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall establish a system for reporting, by the use of the person's name, of all persons who test positive for the human immunodeficiency virus (HIV) infection. The reporting shall include the data including, but not limited to, CD4 count and viral load, and other information that are necessary to comply with the confidentiality and reporting requirements of the most recent edition of the Centers for Disease Control and Prevention's (CDC) Guidelines for National Human Immunodeficiency Virus Case Surveillance. As recommended by the CDC, anonymous testing shall remain as an alternative. If less restrictive data identifying requirements are identified by the CDC, the cabinet shall evaluate the new requirements for implementation.

(2) The reporting system established under subsection (1) of this section shall:

(a) Use the same confidential name-based approach for HIV surveillance that is used for AIDS surveillance by the cabinet;

(b) Attempt to identify all modes of HIV transmission, unusual clinical or virologic manifestations, and other cases of public health importance;

(c) Require collection of the names and data from all private and public sources of HIV-related testing and care services; and

(d) Use reporting methods that match the CDC's standards for completeness, timeliness, and accuracy, and follow up, as necessary, with the health care provider making the report to verify completeness, timeliness, and accuracy.

(3) Authorized surveillance staff designated by the cabinet shall:

(a) Match the information from the reporting system to other public health databases, wherever possible, to limit duplication and to better quantify the extent of HIV infection in the Commonwealth;

(b) Conduct a biennial assessment of the HIV and AIDS reporting systems, insure that the assessment is available for review by the public and any state or federal agency, and forward a copy of the assessment to the Legislative Research Commission and the Interim Joint Committee on Health and Welfare;

(c) Document the security policies and procedures and insure their availability for review by the public or any state or federal agency;

(d) Minimize storage and retention of unnecessary paper or electronic reports and insure that related policies are consistent with CDC technical guidelines;

(e) Assure that electronic transfer of data is protected by encryption during transfer;

(f) Provide that records be stored in a physically secluded area and protected by coded passwords and computer encryption;

(g) Restrict access to data a minimum number of authorized surveillance staff who are designated by a responsible authorizing official, who have been trained in confidentiality procedures, and who are aware of penalties for unauthorized disclosure of surveillance information;

(h) Require that any other public health program that receives data has appropriate security and confidentiality protections and penalties;

(i) Restrict use of data, from which identifying information has been removed, to cabinet-approved research, and require all persons with this use to sign confidentiality statements;

(j) Prohibit release of any names or any other identifying information that may have been received in a report to any person or organization, whether public or private, except in compliance with federal law or consultations with other state surveillance programs and reporting sources. Under no circumstances shall a name or any identifying information be reported to the CDC; and

(k) Immediately investigate any report of breach of reporting, surveillance, or confidentiality policy, report the breach to the CDC, develop recommendations for improvements in security measure, and take appropriate disciplinary action for any documented breach.

(4) The cabinet shall require any physician or medical laboratory that receives a report of a positive test for the human

immunodeficiency virus to report that information by reference to the name in accordance with the procedure for establishing name reporting required by the cabinet in an administrative regulation.

Section 470. KRS 214.990 is amended to read as follows:

(1) Every head of a family who willfully fails or refuses and every physician who fails or refuses to comply with KRS 214.010 shall be guilty of a violation for each day he neglects or refuses to report. Repeated failure to report is sufficient cause for the revocation of a physician's certificate to practice medicine in this state.

(2) Any owner or person having charge of any public or private conveyance, including watercraft, who refuses to obey the rules and regulations made by the Cabinet for Health ***and Family*** Services under KRS 214.020 shall be guilty of a Class B misdemeanor.

(3) Any physician or other person legally permitted to engage in attendance upon a pregnant woman during pregnancy or at delivery who fails to exercise due diligence in complying with KRS 214.160 and 214.170 shall be guilty of a violation.

(4) Any person who violates any of the provisions of KRS 214.280 to 214.310 shall be guilty of a Class A misdemeanor.

(5) Any person who violates any provision of KRS 214.034 or KRS 158.035 shall be guilty of a Class B misdemeanor.

(6) Any person who violates any provision of KRS 214.420 shall be guilty of a violation. Each violation shall constitute a separate offense.

(7) Any person who knowingly violates any provision of KRS 214.452 to 214.466 shall be guilty of a Class D felony. Each violation shall constitute a separate offense.

Section 471. KRS 215.520 is amended to read as follows:

The secretary of the Cabinet for Health ***and Family*** Services shall discharge all duties relating to all matters of tuberculosis control, including, but not limited to, the following:

(1) The facilitation of appropriate clinical services for either recalcitrant or drug resistant persons with active tuberculosis for which failure to provide services will lead to further spread of disease in the Commonwealth;

(2) The promulgation of administrative regulations pursuant to KRS Chapter 13A for the purpose of carrying out the directives of this section, KRS 215.540, 215.550, 215.560, 215.570, 215.580, 215.590, and 215.600;

(3) The maintenance of a central register of all known cases of tuberculosis in the Commonwealth, and local registers as desirable, and the collection, collation, analysis, and publication of statistics and other information;

(4) The facilitation of tuberculosis programs in cooperation with the Department of Corrections, Department of Education, and other state agencies within their respective jurisdictions;

(5) The establishment within the Cabinet for Health ***and Family*** Services of appropriate social service and financial responsibility appraisal methods to insure that tuberculosis patients or suspects receive all possible support from third-party payors, or from the Medical Assistance Program. The Cabinet for Health ***and Family*** Services may contract for services for persons with tuberculosis, either directly or through local health departments, and may pay the rates it deems necessary as a charge against the tuberculosis control funds of the Commonwealth;

(6) The dissemination of educational materials to the citizens of the Commonwealth regarding tuberculosis and its control;

(7) The initiation of special programs and demonstrations in cooperation with agencies of the federal government, universities, voluntary agencies, and other individuals or corporations;

(8) The provision of direct assistance to local health departments, to other agencies of state government, and to other organizations to assist them in carrying out education, prevention, and treatment programs of tuberculosis control; and

(9) Except as otherwise provided by law, to do all other things reasonably necessary to carry out the intent of this section and KRS 215.540 to 215.600.

Section 472. KRS 215.590 is amended to read as follows:

(1) A health service or health facility required to be licensed pursuant to KRS Chapter 216B or KRS Chapter 333, a health provider required to be licensed pursuant to KRS Chapters 311, 312, 313, 314, 315, or 320, or any other person who has knowledge of a person who has active tuberculosis, shall report the case to the local health department in accordance with the administrative regulations of the Cabinet for Health ***and Family*** Services promulgated pursuant to KRS Chapter 13A.

(2) Physicians, hospitals, laboratories, or other institutions which perform related drug susceptibility tests on tubercle bacilli shall report the results of the testing to the local health department in accordance with the administrative regulations of the Cabinet for Health ***and Family*** Services promulgated pursuant to KRS Chapter 13A. All reports of drug-resistant tubercle bacilli shall be made regardless of previous reports.

(3) No legal action shall lie against any physician, hospital employee, laboratory employee, or other person who, in good faith, reports a case of tuberculosis or the isolation of the tubercle bacillus as provided in this section, KRS 215.511, 215.520, 215.531, 215.540, 215.550, 215.560, 215.570, 215.580, and 215.600.

Section 473. KRS 216.2920 is amended to read as follows:

As used in KRS 216.2920 to 216.2929, unless the context requires otherwise:

(1) "Ambulatory facility" means a facility, including an ambulatory surgical facility, ambulatory care clinic, alternative birth

center, mobile health service, or a specialized medical technology service, which is not part of a hospital, and which is licensed pursuant to KRS Chapter 216B, and which provides one (1) or more major ambulatory procedures to patients not requiring hospitalization;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(3) "Charge" means all amounts billed by a hospital or ambulatory facility, including charges for all ancillary and support services or procedures, prior to any adjustment for bad debts, charity contractual allowances, administrative or courtesy discounts, or similar deductions from revenue. However, if necessary to achieve comparability of information between providers, charges for the professional services of hospital-based or ambulatory-facility-based physicians shall be excluded from the calculation of charge;

(4) "Facility" means any hospital or other health care facility, whether operated for profit or not, required to be licensed pursuant to KRS Chapter 216B;

(5) "Health-care provider" or "provider" means any facility and service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health-care practitioners as determined by the Cabinet for Health ***and Family*** Services by administrative regulation promulgated pursuant to KRS Chapter 13A.

(6) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an acute-care hospital, psychiatric hospital, rehabilitation hospital, or chemical dependency treatment facility;

(7) "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic procedures performed by a provider, as periodically determined by the cabinet in administrative regulations promulgated pursuant to KRS Chapter 13A as those for which reports to the cabinet shall be required. "Procedures" also includes procedures that are provided in hospitals or other licensed ambulatory facilities, or those which require the use of special equipment, including fluoroscopic equipment, computer tomographic scanners, magnetic resonance imagers, mammography, ultrasound equipment, or any other new technology as periodically determined by the cabinet;

(8) "Quality" means the extent to which a provider renders care which obtains for patients optimal health outcomes; and

(9) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services.

Section 474. KRS 216.2921 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall collect, pursuant to KRS 216.2925, analyze, and disseminate information in a timely manner on the cost, quality, and outcomes of health services provided by health facilities and health-care providers in the Commonwealth. The cabinet shall make every effort to make health data findings that can serve as a basis to educate consumers and providers for the purpose of improving patient morbidity and mortality outcomes available to the public, and state and local leaders in health policy, through the cost-effective and timely use of the media and the Internet and through distribution of the findings to health facilities and health-care providers for further dissemination to their patients.

(2) The secretary of the Cabinet for Health ***and Family*** Services shall serve as chief administrative officer for the health data collection functions of KRS 216.2920 to 216.2929.

(3) Neither the secretary nor any employee of the cabinet shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of under KRS 216.2920 to 216.2929.

Section 475. KRS 216.2925 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall establish by promulgation of administrative regulations pursuant to KRS Chapter 13A, no later than January 1, 1995, those data elements required to be submitted to the cabinet by all licensed hospitals and ambulatory facilities, including a timetable for submission and acceptable data forms. Thereafter, every hospital and ambulatory facility shall be required to report, on a periodic basis, which may include quarterly reporting, information regarding the charge for and quality of the procedures and health-care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at the option of the provider is submitted through a third party, including, but not limited to, organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the cabinet. The cabinet may conduct statistical surveys of a sample of hospitals, ambulatory facilities, or other providers in lieu of requiring the submission of information by all hospitals, ambulatory facilities, or providers. On at least a biennial basis, the cabinet shall conduct a statistical survey that addresses the status of women's health, specifically including data on patient age, ethnicity, geographic region, and payor sources. The cabinet shall rely on data from readily available reports and

statistics whenever possible.

(2) The cabinet shall require for submission to the cabinet by any group of providers, except for physicians providing services or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition of provider contained in KRS 216.2920 and any further categories determined by the cabinet, at the beginning of each fiscal year after January 1, 1995, and within the limits of the state, federal, and other funds made available to the cabinet for that year, and as provided by cabinet promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:

(a) A list of medical conditions, health services, and procedures for which charge and quality data shall be collected and published at specified time intervals and in a specified manner;

(b) A timetable for filing data, which may include quarterly reporting of the information provided for under paragraph (a) of this subsection;

(c) A list of data elements that are necessary to enable the cabinet to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data;

(d) An acceptable format for data submission which shall include use of the uniform health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet, and which may be in the form of magnetic computer tape, computer diskettes, or other electronic media, or through an electronic network, or in the form of hard copy;

(e) Procedures to allow health-care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and

(f) Procedures pertaining to the confidentiality of data collected.

(3) The cabinet shall coordinate its data-gathering activities with other data-collection activities conducted by the Department of Insurance, as well as other state agencies which collect health-related service, utilization, financial, and health-care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.

(4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health-care charges and quality.

(5) The cabinet may independently audit any data required to be submitted by providers as needed to corroborate the accuracy of the submitted data. Any audit may be at the expense of the cabinet and shall, to the extent practicable, be coordinated with other audits performed by state agencies.

(6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at any time after July 15, 1996.

(7) The Cabinet for Health ***and Family*** Services shall collect all data elements under this section using only the uniform health insurance claim form pursuant to KRS 304.14-135.

Section 476. KRS 216.2929 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall at least annually, on or before July 1, prepare and publish, in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons, a report or reports on health-care charges, quality, and outcomes which includes diagnosis-specific or procedure-specific comparisons for each hospital and ambulatory facility, differentiated by payor if relevant, and for other provider groups as relevant data becomes available.

(2) The cabinet shall at least annually, on or before October 1, submit to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor a report on the operations and activities of the cabinet under KRS 216.2920 to 216.2929 during the preceding fiscal year, including a copy of each study or report required or authorized under KRS 216.2920 to 216.2929 and any recommendations relating thereto.

(3) The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, to the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare and to the Governor on matters pertaining to comparative health-care charges, quality, and outcomes, the effectiveness of its activities relating to educating consumers and containing health-care costs, and any recommendations regarding its data collection and dissemination activities.

(4) The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on the special health needs of the minority population in the Commonwealth as compared to the population in the Commonwealth as compared to the population at large. The report shall be transmitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor and shall contain an overview of the health status of minority Kentuckians, shall identify the diseases and conditions experienced at disproportionate mortality and morbidity rates within the minority population, and shall make recommendations to meet the identified health needs of the minority population.

Section 477. KRS 216.313 is amended to read as follows:

As used in KRS 216.310 to 216.360:

(1) "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care, for more than twenty-four (24) hours, of two (2) or more nonrelated individuals suffering from illness, disease, injury, deformity, or a place including nursing and convalescent homes and all institutions for the care of the sick, devoted primarily to providing, for more than twenty-four (24) hours, obstetrical or other medical or nursing care for two (2) or more nonrelated individuals;

(2) "District" means hospital district;

(3) "Board" means the governing body of a hospital district;

(4) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services or his designee; and

(5) "Medical service area" means the geographic territory from which patients come or are expected to come to existing or proposed health facilities as defined by the Cabinet for Health ***and Family*** Services.

Section 478. KRS 216.315 is amended to read as follows:

The secretary of the Cabinet for Health ***and Family*** Services shall, in addition to his other duties, act as secretary of hospital districts, and is vested with jurisdiction, power, and authority, when the conditions set forth in KRS 216.317 exist, to establish a hospital district within a medical service area as established by the secretary of the Cabinet for Health ***and Family*** Services.

Section 479. KRS 216.347 is amended to read as follows:

Within sixty (60) days after the close of each fiscal year the board shall make a written report to the secretary. A copy of this report shall be filed with the county clerk of each county within the district. The report shall contain:

(1) An itemized statement of the various sums of money received for the district;

(2) An itemized statement of expenditures from the fund;

(3) A statement of the property acquired by devise, bequests, purchase, gift, or otherwise during the fiscal year;

(4) A statement of the character of hospital services furnished to the district during the fiscal year; and

(5) Any other statistics or information requested by the Cabinet for Health ***and Family*** Services.

Section 480. KRS 216.378 is amended to read as follows:

As used in KRS 216.378, 216.379, and 216.380, the following definitions shall apply:

(1) "Rural health network" means an organization that consists of at least one (1) facility that has been or will be designated as a critical access hospital and at least one (1) hospital that furnishes acute care services.

(2) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services.

Section 481. KRS 216.379 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall make application to the Secretary of the United States Department of Health and Human Services to establish a Medicare Rural Hospital Flexibility Program in accordance with 42 U.S.C. sec. 1395i-4, as amended by the Balanced Budget Act of 1997, Pub. L. 105-33.

(2) The cabinet shall develop and submit as part of its application a rural health plan that:

    (a) Provides for the creation of one (1) or more rural health networks;

    (b) Promotes regionalization of rural health services in the state;

    (c) Improves access to hospital and other health services for rural residents of the state; and

    (d) Designates rural hospitals as critical access hospitals.

(3) The secretary shall designate as a critical access hospital any facility which complies with the provisions of KRS 216.380.

Section 482. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530:

(1) "Long-term-care facilities" means those health-care facilities in the Commonwealth which are defined by the Cabinet for Health ***and Family*** Services to be family-care homes, personal-care homes, intermediate-care facilities, skilled-nursing facilities, nursing facilities as defined in Pub. L. 100-203, nursing homes, and intermediate-care facilities for the mentally retarded and developmentally disabled.

(2) "Resident" means any person who is admitted to a long-term-care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance.

(3) "Cabinet" means the Cabinet for Health ***and Family*** Services.

Section 483. KRS 216.515 is amended to read as follows:

Every resident in a long-term-care facility shall have at least the following rights:

(1) Before admission to a long-term-care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all services available at the long-term-care facility. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(2) Before admission to a long-term-care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all resident's responsibilities and rights as defined in this section and KRS 216.520 to 216.530. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member, or his guardian, prior to or at the time of admission and quarterly during the resident's stay at the facility, of all service charges for which the resident or his responsible family member or his guardian is responsible for paying. The resident and the responsible party or his responsible family member or his guardian shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or administrative regulation. Reasonable notice of such action shall be given to the resident and the responsible party or his responsible family member or his guardian.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination, or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident or his responsible family member or his guardian shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or administrative regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and the responsible party or his responsible family member or his guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions, and any unused balance of moneys from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions, and funds that the facility is not liable for shall be promptly returned to the resident's responsible party or family member, or his guardian, or his executor.

(9) If a resident is married, privacy shall be assured for the spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multibed rooms and in tub, shower, and toilet rooms.

(16) The resident and the responsible party or his responsible family member or his guardian shall be permitted the choice of a physician.

(17) If the resident is adjudicated mentally disabled in accordance with state law, the resident's guardian shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and the responsible party or his responsible family member or his guardian has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible party or family member or his guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the Cabinet for Health ***and Family*** Services.

(24) Each resident and the responsible party or his responsible family member or his guardian has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

(26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the cabinet.

Section 484. KRS 216.520 is amended to read as follows:

For the purpose of supplementing the rights of residents in long-term-care facilities, such facilities shall take the following actions:

(1) Every long-term-care facility shall conspicuously post throughout the facility a listing of the residents' rights and responsibilities as defined in KRS 216.515 to 216.525.

(2) Every long-term-care facility shall develop and implement a mechanism which will allow each resident and the responsible party or his responsible family member or his guardian to participate in the planning of the resident's care. Each resident shall be encouraged and provided assistance in the planning of his care.

(3) All long-term-care facilities shall establish written procedures for the submission and resolution of complaints and recommendations by the resident and the responsible party or his responsible family member or his guardian. Such policies shall be conspicuously displayed throughout the facility pending approval of their adequacy by the cabinet.

(4) Every long-term-care facility shall prepare a written plan and provide appropriate staff training to implement each of the residents' rights as defined in KRS 216.515 to 216.525.

(5) All long-term-care facilities shall maintain in their facilities one (1) copy of the most recent inspection report as prepared by the Cabinet for Health ***and Family*** Services. The cabinet shall provide all long-term-care facilities with one (1) copy of the most recent inspection report.

Section 485. KRS 216.535 is amended to read as follows:

As used in KRS 216.537 to 216.590:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Cabinet for Health ***and Family*** Services to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing facilities as defined in Pub. L. 100-203, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services.

(3) "Resident" means any person admitted to a long-term care facility as defined by this section.

(4) "Licensee" in the case of a licensee who is an individual means the individual, and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership, or association.

(5) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services.

(6) "Long-term care ombudsman" means the person responsible for the operation of a long-term care ombudsman program which investigates and resolves complaints made by or on behalf of residents of long-term care facilities.

(7) "Willful interference" means an intentional, knowing, or purposeful act or omission which hinders or impedes the lawful performance of the duties and responsibilities of the ombudsman as set forth in this chapter.

(8) The following information shall be available upon request of the affected Medicaid recipient or responsible party:

  (a) Business names, business addresses, and business telephone numbers of operators and administrators of the facility; and

  (b) Business names, business addresses, and business telephone numbers of staff physicians and the directors of nursing.

(9) The following information shall be provided to the nursing facility patient upon admission:

  (a) Admission and discharge policies of the facility;

(b) Payment policies relevant to patients for all payor types; and

(c) Information developed and distributed to the nursing facility by the Department for Medicaid Services, including, but not limited to:

1. Procedures for implementation of all peer review organizations' reviews and appeals processes;

2. Eligibility criteria for the state's Medical Assistance Program, including circumstances when eligibility may be denied; and

3. Names and telephone numbers for case managers and all state long term care ombudsmen.

Section 486. KRS 216.541 is amended to read as follows:

(1) Willful interference, as defined in KRS 216.535, with representatives of the Office of the Long-Term-Care Ombudsman in the lawful performance of official duties, as set forth in the Older Americans Act, 42 U.S.C. secs. 3001 et seq., shall be unlawful.

(2) Retaliation and reprisals by a long-term-care facility or other entity against any employee or resident for having filed a complaint or having provided information to the long-term care ombudsman shall be unlawful.

(3) A violation of subsection (1) or (2) of this section shall result in a fine of one hundred dollars ($100) to five hundred dollars ($500) for each violation. Each day the violation continues shall constitute a separate violation. The manner in which appeals are presented for violations of this section shall be in accordance with administrative regulations prescribed by the secretary for determining the rights of the parties. All fines collected pursuant to this section shall be used for programs administered by the ***Division***[~~Office~~] of Aging Services.

(4) The Cabinet for Health ***and Family*** Services shall authorize the acquisition of liability insurance for the protection of representatives of the Long-Term-Care Ombudsman Program who are not employed by the state, to ensure compliance with the federal mandate that no representative of the office shall be liable under state law for the good faith performance of official duties.

Section 487. KRS 216.750 is amended to read as follows:

As used in KRS 216.750 to 216.780:

(1) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provides nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care;

(2) "Personal-care home" means a place devoted primarily to the maintenance and operation of facilities for the care of aged or invalid persons who do not require intensive care normally provided in a hospital or nursing home but who do require care in excess of room, board, and laundry;

(3) "Fund" means the Nursing Home and Personal Care Home Loan Fund; and

(4) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services.

Section 488. KRS 216.760 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall be responsible for promotion of interest in the development of additional facilities for the housing and care of the elderly, and for providing consultative and technical assistance to public and private groups engaged in the development of such facilities. The cabinet's functions shall include but not be limited to:

(1) Promotion of local and community interest in the problem of housing and care for the elderly.

(2) Assisting local housing commissions in the development of low-rent housing projects for the elderly.

(3) Provision of information as to need for facilities in particular areas or locations.

(4) Provision of advice and assistance in the planning of facilities as to area to be served, size, type, staffing, operation, and maintenance.

(5) Provision of information as to the availability of federal financial assistance and the procedures which should be followed in applying for such assistance.

(6) Provision of information as to the availability of state financial assistance and the procedures which should be followed in applying for such assistance.

(7) Provision of information as to the availability of private financial assistance.

(8) Provision of information as to licensing requirements of the state or its political subdivisions.

Section 489. KRS 216.787 is amended to read as follows:

(1) No agency providing services to senior citizens which are funded by the Department for Community Based Services of the Cabinet for ***Health and Family Services***[~~Families and Children~~] or the ***Division***[~~Office~~] of Aging Services of the Cabinet for Health ***and Family*** Services shall employ persons in a position which involves providing direct services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.

(2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.

(3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the Justice Cabinet for any applicant for employment prior to employing the applicant.

Section 490. KRS 216.793 is amended to read as follows:

(1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health ***and Family*** Services, to the applicant for initial employment in an assisted-living community nursing facility, or nursing pool providing staff to a nursing facility, or in a position funded by the Department for Community Based Services of the Cabinet for ***Health and Family Services***[~~Families and Children~~] or the ***Division***[~~Office~~] of Aging Services***, Department for Human Support Services*** of the Cabinet for Health ***and Family*** Services and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet or the Administrative Office of the Courts. The Justice Cabinet or the Administrative Office of the Courts may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request.

Section 491. KRS 216.800 is amended to read as follows:

As used in KRS 216.800 to 216.853 unless the context requires otherwise:

(1) "Agreement" means a written contract between the authority and any city, county, or other political subdivision of the Commonwealth or any combination thereof, providing for the construction and financing and operation of one or more projects of the authority;

(2) "Authority" means the Kentucky Health and Geriatric Authority, a body corporate and politic created by KRS 216.800 to 216.853;

(3) "Bonds" means revenue bonds, notes, or other obligations either in original or refunded form issued under the provisions of KRS 216.800 to 216.853;

(4) "Cost" means the expenditures for construction, acquisition of land, rights-of-way, property, rights, easements and interest acquired for such construction, demolishing or removing any buildings or structures on land so acquired, all machinery and equipment, financing charges, interest prior to and during construction, engineering and legal expenses, plans, specifications, surveys, cost and revenue estimates, other expenses necessary or incident to determining the feasibility or practicability of constructing any project, administrative expenses, and such other expenses necessary or incident to the construction of a project, the financing of such construction and the placing of the project into operation. Any expense heretofore incurred by the cabinet on projects of the authority may be reimbursed to it from the proceeds of revenue bonds of the authority;

(5) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(6) "Lease" means a written lease made by the authority as lessor and the cabinet, federal government, city, county, or other political subdivision of the Commonwealth or any combination thereof;

(7) "Owner" means all individuals, partnerships, associations, or corporations having any title or interest in any property, rights, easements, or interest authorized by KRS 216.800 to 216.853 to be acquired; and

(8) "Project" means any building, facility, equipment, or structure which the authority may deem necessary for the promotion of the health of the residents of the Commonwealth including, but not limited to, hospitals, geriatric centers, appropriately designed housing for the elderly, medical clinics, rehabilitation centers, diagnostic centers, extended care centers and such other facilities as are related to the care, research, and treatment of disease, and all property, rights, easements, and interest which may be acquired by the authority for the construction and operation of the project.

Section 492. KRS 216.803 is amended to read as follows:

(1) The Kentucky Health and Geriatric Authority shall be composed of five (5) members who shall be the Governor, secretary for health ***and family*** services or his designee, commissioner of public health, Attorney General, and the secretary of revenue. These five (5) persons and their successors in office are a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth by the name of the "Kentucky Health and Geriatric Authority," with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, to have and use a corporate seal, and to exercise, in addition to the powers and functions conferred by KRS 216.800 to 216.853, all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their services, but are entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.

(3) Three (3) members of the authority shall constitute a quorum for the transaction of business. The Governor shall be the

chairman of the authority and the secretary for health ***and family*** services or his designee shall be the vice chairman. The authority shall elect a secretary and a treasurer who shall serve at the pleasure of the authority and receive such compensation as may be determined by the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in such amount as the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth, premium therefor to be paid by the authority. The authority shall establish and maintain an office and the secretary of the authority shall maintain therein complete records of the authority's actions and proceedings, as public records open to inspection.

Section 493. KRS 216.860 is amended to read as follows:

As used in KRS 216.865:

(1) "Division" means the Division of Community Health Services within the Cabinet for Health ***and Family*** Services;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(3) "Secretary" means the secretary for health ***and family*** services; and

(4) "Nursing pools" means any person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in health-care facilities for medical personnel including, but not limited to, nurses, nursing assistants, nurses' aides, and orderlies. For purposes of KRS 216.865, nursing registries shall be considered to be nursing pools. Excluded from this definition are any health-facility-based or in-house pools established to provide services within the confines of such facility or business, any person who only engages in providing his or her own services on a temporary basis to health-care facilities, and home-health agencies licensed pursuant to KRS Chapter 216B which provide or procure temporary employment in health-care facilities for medical personnel.

Section 494. KRS 216.875 is amended to read as follows:

As used in KRS 216.880 to 216.890 the following definitions shall apply:

(1) "Prescribed pediatric extended care center" hereinafter referred to as a "PPEC center," means any building or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a part of the day, basic services to three (3) or more medically dependent or technologically dependent children who are not related to the owner or operator by blood, marriage, or adoption and who require such services;

(2) "Basic services" include, but are not limited to, development, implementation, and monitoring of a comprehensive protocol of care, developed in conjunction with the parent or guardian, which specifies the medical, nursing, psychosocial, and developmental therapies required by the medically dependent or technologically dependent child served as well as the caregiver training needs of the child's legal guardian;

(3) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(4) "Owner or operator" means any individual who has general administrative charge of a PPEC center;

(5) "Medical records" means medical records maintained in accordance with accepted professional standards and practices as specified in the administrative regulations;

(6) "Medically dependent or technologically dependent child" means a child who because of a medical condition requires continuous therapeutic interventions or skilled-nursing supervision which must be prescribed by a licensed physician and administered by, or under the direct supervision of, a licensed registered nurse; and

(7) "Supportive services or contracted services" include, but are not limited to, speech therapy, occupational therapy, physical therapy, social work, developmental, child life, and psychological services.

Section 495. KRS 216.890 is amended to read as follows:

(1) On or before July 1, 1989, the Cabinet for Health ***and Family*** Services shall promulgate administrative regulations to implement the provisions of KRS 216.875 to 216.890, which shall include reasonable and fair standards. Such standards shall relate to:

  (a) The assurance that PPEC services are family-centered and provide individualized medical, developmental, and family training services;

  (b) The maintenance of PPEC centers based upon the size of the structure and number of children, relating to plumbing, heating, lighting, ventilation, and other building conditions, including adequate space, which will ensure the health, safety, comfort, and protection from fire of the children served;

  (c) The appropriate provisions of the "Life Safety Code" (NFPA-101, 1985 edition);

  (d) The number and qualifications of all personnel who have responsibility for the care of the children served;

  (e) All sanitary conditions within the PPEC center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof, which will ensure the health and comfort of children served;

  (f) Programs and basic services promoting and maintaining the health and development of the children served and meeting the training needs of the children's legal guardians;

  (g) Supportive, contracted, other operational, and transportation services; and,

(h) Maintenance of appropriate medical records, data, and information relative to the children and programs to be maintained in the facility for inspection by the cabinet.

(2) Enforcement of standards pursuant to the adoption of administrative regulations under KRS 216.875 to 216.890 shall not take effect until six (6) months after the adoption of such administrative regulations.

Section 496. KRS 216.905 is amended to read as follows:

It shall be unlawful to operate or maintain a network without first obtaining a license from the Cabinet for Health ***and Family*** Services. A network shall not require a certificate of need.

Section 497. KRS 216.910 is amended to read as follows:

(1) Any licensed network shall be permitted to establish one (1) extension site per full-time physician on the staff of the network. Extension sites shall not be required to have a separate license but shall conform to administrative regulations promulgated by the Cabinet for Health ***and Family*** Services and shall be inspected on a regular basis.

(2) Each network shall establish protocols for the treatment of the twenty (20) most common patient problems. At a minimum, the protocols shall identify for each problem a working definition, patient symptoms, diagnostic techniques, acceptable values for laboratory findings, conditions under which a physician shall be consulted, and treatment methods. These protocols shall be approved by the board. The protocols shall be listed in a handbook provided to each midlevel health-care practitioner and shall be available to patients upon request.

(3) Each network shall have a system of patient and family medical records which employs the problem-oriented medical record format.

(4) A network shall employ a primary-care physician who has admitting privileges at a local hospital. The network shall hire ancillary personnel as necessary to provide the basic services of the network. The network may hire midlevel health-care practitioners to assist the physician but there shall be one (1) physician on staff for each midlevel health-care practitioner.

(5) A physician shall see each patient for whom services are provided by a midlevel health-care practitioner not less than twice a year. A medical chart auditor shall review the medical record entries for each patient encounter on the day of the encounter and will refer to the physician immediately any deviation from protocol.

(6) Each network shall develop a quality assurance program which shall be approved by the board. At a minimum, the quality assurance program shall address:

(a) Program goals and objectives;

(b) Program organization, including identification of responsible parties, the nature of their responsibilities, and the persons to whom they report; and

(c) Identification of the patient care process.

(7) Each network shall establish a process by which it regularly evaluates the health-care needs of its community and the services it provides in response to those needs.

(8) Each network shall provide the following educational opportunities:

(a) Ninety (90) minutes each week of continuing education to its health-care providers on topics relating to patient care needs; and

(b) One and one-half (1.5) days leave and fifty percent (50%) of expenses up to three hundred dollars ($300) per year to its midlevel health-care practitioners for approved continuing education outside of the network.

(9) Each network shall either provide directly for twenty-four (24) hour, seven (7) day per week access to care for its patients or have formal written agreements with local providers to insure twenty-four (24) hour, seven (7) day per week access to care for its patients.

(10) No network may charge or collect more money for the services of any midlevel health-care practitioner than is allowable under Medicaid for other nonphysician practitioners.

Section 498. KRS 216.915 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations necessary to implement KRS 216.900 to 216.910.

Section 499. KRS 216.920 is amended to read as follows:

There is hereby created the Kentucky Board of Family Health Care Providers.

(1) The board shall be composed of one (1) representative from each of the following organizations: the Kentucky Medical Association, the Kentucky Nursing Association, a physician from the Kentucky Public Health Association, the Kentucky Dental Association, the Kentucky Hospital Association, the Kentucky Primary Care Association, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, the Kentucky Board of Pharmacy, the Kentucky Academy of Family Practitioners, a physician from either family practice or community medicine representing each of the colleges of medicine in the Commonwealth, and a consumer.

(2) The board shall:

(a) Certify new midlevel health-care practitioners, recertify midlevel health-care practitioners annually, and revoke certification as necessary;

(b) Develop and administer qualifying examinations for midlevel health-care practitioners to test knowledge of the most frequently occurring protocols;

(c) Identify continuing education requirements for midlevel health-care practitioners and qualify the continuing education courses provided to them;

(d) Approve or prescribe the treatment protocols utilized by each network;

(e) Approve the quality assurance programs of each network;

(f) Approve the drug formulary used by each network; and

(g) Issue administrative regulations necessary to implement this section and KRS 216.925.

(3) The board shall meet at least quarterly. The Cabinet for Health ***and Family*** Services shall provide necessary staff assistance to the board and shall reimburse board members at the rate of reimbursement for the advisory councils and committees.

(4) Applicants for certification and recertification shall pay a fee of fifty dollars ($50). These fees shall be placed in a trust and agency fund and shall be used to cover the cost of board operations and the administration of examinations.

(5) Upon appeal of a board decision, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 500. KRS 216.936 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall establish an abuse registry to include information pertaining to findings of resident neglect as defined at 42 C.F.R. 488.301 or abuse as defined at 42 C.F.R. 488.301, and misappropriation of resident property by a nurse aide or home health aide. The abuse registry may be created by expanding or modifying the existing nurse aide abuse registry to include home health aides as permitted by 42 C.F.R. 483.156.

Section 501. KRS 216.939 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations in accordance with KRS Chapter 13A that establish and maintain an abuse registry for nurse aides and home health aides. The cabinet shall also expand or modify the hearing and appeals procedure to include nurse aides and home health aides.

Section 502. KRS 216.941 is amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the provisions of KRS Chapters 211, 216, 311, 312, or 314 shall be necessary for the voluntary provision of health care services by any person who:

(a) Is a charitable health care provider as defined in KRS 216.940; or

(b) Does not regularly practice in the Commonwealth.

(2) No person whose license or certificate is suspended or revoked under disciplinary proceedings in any jurisdiction, nor any person who renders services outside of the scope of practice authorized by his or her licensure or certification or exception to license or certification shall be allowed to participate with any sponsoring organization as a charitable health care provider.

(3) Before providing charitable health care services in this state, a charitable health care provider or sponsoring organization shall register with the Cabinet for Health ***and Family*** Services by filing a registration form that shall contain the following information:

(a) The name, address, and phone number of the charitable health care provider;

(b) Written and verifiable documentation of a current Kentucky license including, if applicable, a license granted to an individual under a reciprocal agreement with another state or country;

(c) The name, principal office address, phone number, and principal officer of any sponsoring organization;

(d) The dates, locations, types of services, and intended recipients of any charitable health care services to be performed in the state;

(e) Information as to any medical malpractice insurance procured under KRS 304.40-075 or otherwise; and

(f) Other information as the cabinet may require by administrative regulation.

(4) The cabinet shall provide, upon request of the charitable health care provider or sponsoring organization, any information available as to declared emergencies, underserved populations, and lack of access to health care in the state that will assist the charitable health care provider or sponsoring organization in the provision of these services.

(5) Boards of health created under KRS Chapter 212 may submit requests for charitable health care providers in their jurisdictions to be listed in any information provided.

(6) Each sponsoring organization shall maintain a list of health care providers associated with its provision of charitable health care services. For each health care provider, the sponsoring organization shall maintain a copy of a current license, certificate, or statement of exemption from licensure or certification and shall require each health care provider to attest in writing that his or her license or certificate is not suspended or revoked under disciplinary proceedings in any jurisdiction.

The sponsoring organization shall maintain its records of charitable health care providers for at least five (5) years after the provision of charitable health care services, including actual dates, types of services, and recipients of charitable health care services, and shall furnish these records upon the request of the Cabinet for Health ***and Family*** Services. Compliance with this section shall be prima facie evidence that the sponsoring organization has exercised due care in selecting charitable health care providers.

(7) The cabinet may revoke the registration of any charitable health care provider or sponsoring organization for failure to comply with the provisions of KRS 216.940 to 216.945, in accordance with the provisions of KRS Chapter 13B.

(8) The cabinet shall report to the General Assembly the name and location of individuals registered with the cabinet as charitable health care providers, by October 1 of each year.

Section 503. KRS 216A.040 is amended to read as follows:

There shall be a Kentucky Board of Licensure for Nursing Home Administrators located within the Finance and Administration Cabinet for administrative and budgetary purposes. The board shall be composed of ten (10) members. The secretary of the Cabinet for Health ***and Family*** Services shall be an ex officio member of the board. The other members of the board shall be appointed by the Governor. One (1) member shall be a practicing hospital administrator, to be appointed from a list of two (2) names submitted by the Kentucky Hospital Association. One (1) member shall be a practicing medical physician, to be appointed from a list of two (2) names submitted by the Kentucky State Medical Association. One (1) member shall be an educator in the field of allied health services. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member shall be a practicing nursing-home administrator appointed from a list of two (2) names submitted by the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc. The other four (4) members shall be practicing nursing-home administrators appointed from a list of two (2) names for each vacancy submitted by the Kentucky Association of Health Care Facilities and duly licensed under this chapter, except that such members of the initial board shall be required only to possess the qualifications and be eligible for licensure as required in this chapter.

Section 504. KRS 216B.010 is amended to read as follows:

The General Assembly finds that the licensure of health facilities and health services is a means to insure that the citizens of this Commonwealth will have safe, adequate, and efficient medical care; that the proliferation of unnecessary health-care facilities, health services, and major medical equipment results in costly duplication and underuse of such facilities, services, and equipment; and that such proliferation increases the cost of quality health care within the Commonwealth. Therefore, it is the purpose of this chapter to fully authorize and empower the Cabinet for Health ***and Family*** Services to perform any certificate-of-need function and other statutory functions necessary to improve the quality and increase access to health-care facilities, services, and providers, and to create a cost-efficient health-care delivery system for the citizens of the Commonwealth.

Section 505. KRS 216B.0441 is amended to read as follows:

(1) As used in this section, "adult day health care program" means a program licensed by the Cabinet for Health ***and Family*** Services that provides organized health care for its clients during specified daytime hours, that may include continuous supervision to assure that health care needs are being met, supervision of self-administration of medications, and provision of nursing services, personal care services, self-care training, and social and recreational activities for individuals of all ages.

(2) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish health, safety, and treatment requirements for licensed adult day health care programs. No person, association, corporation, or other organization shall operate or maintain an adult day health care program without first obtaining a license as provided in this section.

(3) The cabinet may issue a license upon request to any adult day health care program meeting the standards required under subsection (2) of this section and administrative regulations promulgated thereunder. The cabinet may deny, revoke, suspend, or modify an adult day health care program license for failure to comply with standards set by the cabinet.

(4) Services provided in an adult day health care program for its clients may include:

(a) Medical therapeutic services; and

(b) Physical and speech therapy.

Section 506. KRS 216B.175 is amended to read as follows:

(1) A physician assistant, credentialed under KRS Chapter 311, when those duties and responsibilities are within the scope of training received in an approved program and within the scope of the supervising physician's practice, or an advanced registered nurse practitioner licensed under KRS Chapter 314, may:

(a) Perform a history and physical examination for a patient admitted to an acute care or psychiatric hospital licensed under this chapter; and

(b) Order and review continuation of restraints and seclusion as a health care practitioner in accordance with 42 C.F.R. 482.13.

(2) A history and physical examination shall be performed no more than seven (7) days before or twenty-four (24) hours after a patient is admitted to an acute care or psychiatric hospital licensed under this chapter.

(3) The history and physical examination that has been performed in compliance with subsection (2) of this section is

transferable to another licensed level of care within the same hospital.

(4) The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the content of the history and physical examination required by subsection (2) of this section performed in an acute or psychiatric hospital that shall be used by the licensing entity.

Section 507. KRS 216B.300 is amended to read as follows:

As used in KRS 216B.300 to 216B.320 and KRS 216B.990(7), unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services or its designee. "Designee" means any agency established under KRS Chapter 211 or KRS 147A.050 whose duties related to this chapter shall be set forth in administrative regulation;

(2) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services;

(3) "Boarder" means a person who does not require supervision or assistance related to medication, activities of daily living, or a supervised plan of care; and

(4) "Boarding home" means any home, facility, institution, lodging, or other establishment, however named, which accommodates three (3) or more adults not related by blood or marriage to the owner, operator, or manager, and which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the cabinet or any hotel as defined in KRS 219.011(3).

Section 508. KRS 216B.303 is amended to read as follows:

Every resident in a boarding home, as defined in KRS 216B.300, shall have at least the following rights:

(1) Before entering a boarding home, the resident or the resident's guardian, if any, shall be fully informed in writing, as evidenced by the resident's written acknowledgment or that of the resident's guardian, of all services provided by the boarding home and all applicable charges.

(2) Before entering a boarding home, the resident or the resident's guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment or that of the resident's guardian, of all the resident's rights as defined in this section, and a list of any rules established by the boarding home.

(3) All residents shall be allowed to exercise their rights as a resident and a citizen, and may voice grievances and recommend changes in policies and services to the boarding home operator and to outside representatives of their choice, free from restraint, interference, coercion, discrimination, or reprisal.

(4) All residents shall be free from mental and physical abuse.

(5) Each resident may manage the use of his personal funds. The boarding home operator shall not require a resident to designate the operator as payee for any benefits received by the resident. However, if the operator accepts the responsibility for managing the resident's personal funds as evidenced by the operator's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include the operator giving quarterly itemized statements to the resident or the resident's guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The operator shall return to the resident his valuables, personal possessions, and any unused balance of moneys from his account at the time the resident leaves the boarding home.

(6) Residents shall not be required to perform services for the boarding home.

(7) Residents may associate and communicate privately with persons of their choice, within reasonable hours established by the boarding home, and send and receive personal mail unopened.

(8) No resident shall be detained against the resident's will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish.

(9) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(10) Residents shall be assured of at least visual privacy in multibed rooms and in bathrooms.

(11) If the resident has been adjudicated wholly mentally disabled in both financial and personal affairs in accordance with KRS 387.590, the resident's guardian shall not place the ward in a boarding home.

(12) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality.

(13) Residents shall have access to a telephone at a convenient location within the boarding home for making and receiving telephone calls subject to reasonable rules established by the boarding home.

(14) Residents have the right to have private meetings with inspectors representing the Cabinet for Health ***and Family*** Services.

(15) Each resident and his guardian has the right to have access to all inspection reports on the boarding home.

Section 509. KRS 216B.305 is amended to read as follows:

(1) No person, association, business entity, or organization shall advertise, solicit boarders, or operate a boarding home without registering, on an annual basis, in a manner and form prescribed by the secretary. No person who has been convicted of a crime of abuse under KRS 508.100 to 508.120 or who has had a report of abuse substantiated by the cabinet shall be registered to operate a boarding home. The secretary shall impose a fee, not to exceed one hundred dollars ($100),

for this registration.

(2) The secretary shall adopt standards, by administrative regulation pursuant to KRS Chapter 13A, for the operation of boarding homes. The administrative regulations shall include minimum requirements in the following areas:

(a) Minimum room sizes for rooms occupied for sleeping purposes. Rooms occupied by one (1) boarding home resident shall contain at least sixty (60) square feet of floor space. Rooms occupied by more than one (1) occupant shall contain at least forty (40) square feet of floor space for each occupant;

(b) Bedding, linens, and laundry services provided to residents;

(c) Sanitary and plumbing fixtures, water supply, sewage disposal, and sanitation of the premises;

(d) Heating, lighting, and fire prevention, including the installation and maintenance of smoke detectors;

(e) Maintenance of the building;

(f) Food handling, preparation, and storage, and kitchen sanitation;

(g) Nutritional standards sufficient to meet the boarder's need;

(h) Complaint procedures whereby residents may lodge complaints with the cabinet concerning the operation of the boarding home; and

(i) Initial and periodic screening procedures to ensure that individuals meet the definition of "boarder" under KRS 216B.300(3).

(3) Prior to the initial or annual registration of a boarding home, the cabinet shall cause an unannounced inspection to be made of the boarding home, either by cabinet personnel or through the local health department acting on behalf of the cabinet, to determine if the boarding home is in compliance with:

(a) Standards established in subsections (1) and (2) of this section;

(b) Administrative regulations relating to the operation of boarding homes promulgated pursuant to subsection (2) of this section; and

(c) All applicable local health, fire, building, and safety codes and zoning ordinances.

(4) (a) A boarding home shall not be registered to any person, association, business entity, or organization that has been previously penalized for operating a boarding home without a registration or that has had a previously denied or revoked registration to operate a boarding home, for a period of five (5) years following the date of imposition of the previous penalty or denial or revocation of registration.

(b) A boarding home operator may appeal the cabinet's denial of initial or annual registration, and an administrative hearing shall be conducted in accordance with KRS Chapter 13B. A hearing held for a summary suspension shall be expedited and shall be in accordance with administrative regulations promulgated by the cabinet. If a boarding home continues to operate in violation of administrative regulations promulgated pursuant to subsection (2) of this section, the cabinet shall institute injunctive proceedings in Circuit Court to terminate the operation of the boarding home.

(5) Any person, association, business entity, or organization that submits an application to register a boarding home that conceals a previously denied or revoked application or conceals a penalty received for operating a boarding home without a registration shall be liable for a civil penalty of at least one thousand dollars ($1,000) but not more than five thousand dollars ($5,000). Any registration issued in reliance upon the application concealing information shall be immediately revoked.

(6) Initial and annual registration may be denied and existing registration may be revoked for any of the following:

(a) The boarding home fails to achieve or maintain substantial and continuing compliance with administrative regulations promulgated pursuant to subsection (2) of this section;

(b) The boarding home fails or refuses to correct violations within a reasonable time as specified by the cabinet; or

(c) The applicant for registration or the registrant has been convicted of a crime related to abuse, neglect, or exploitation of an adult or has had an incident of adult abuse, neglect, or exploitation as defined in KRS 209.020, substantiated by the cabinet.

(7) Employees or designated agents of the cabinet shall have the authority to enter at any time a boarding home or any premises suspected of operating as an unregistered boarding home for the purpose of conducting an inspection or investigating a complaint.

(8) A boarding home shall not handle, store, dispense, or assist with the dispensing of a boarder's prescription or non-prescription medications.

(9) Upon request of the boarder, the boarding home shall provide access to a lockable compartment for use by a resident who requests secure storage for prescription medication.

(10) If a boarding home fails to meet a minimum standard established in subsection (2) or (3) of this section and is in such a condition that the cabinet determines that the boarding home's continued operation poses a significant risk to the health and safety of its residents, the cabinet may summarily suspend the registration of the boarding home by ordering that its

operations cease until corrections are made or until a hearing is held on the appropriateness of the suspension.

(11) Nothing in this section or KRS 216B.303 shall be construed to prohibit local governments from imposing requirements on boarding homes that are stricter than those imposed by administrative regulations of the Cabinet for Health ***and Family*** Services.

Section 510. KRS 216B.450 is amended to read as follows:

As used in this section and KRS 216B.455:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(2) "Community-based" means a facility that is located in an existing residential neighborhood or community;

(3) "Freestanding" means a completely detached building or two (2) residences under one (1) roof that are clearly separate and can serve youth independently;

(4) "Home-like" means a residence with living space designed to accommodate the daily living needs and tasks of a family unit, with opportunity for adult-child communication, shared tasks, adult-child learning, congregate meals, and family-type routines appropriate to the ages and levels of functioning of the residents; and

(5) "Psychiatric residential treatment facility" means a licensed, community-based, and home-like facility with a maximum of nine (9) beds which provides inpatient psychiatric residential treatment to residents age six (6) to twenty-one (21) years who have an emotional disability or severe emotional disability as defined in KRS 200.503, with an age range of no greater than five (5) years at the time of admission in a living unit.

Section 511. KRS 216B.455 is amended to read as follows:

(1) A certificate of need shall be required for all psychiatric residential treatment facilities. The application for a certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed psychiatric residential treatment facility and each of the following agencies, organizations, or facilities located in the service area of the proposed facility:
   (a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.509;
   (b) Department for Community Based Services;
   (c) Local school districts;
   (d) At least one (1) psychiatric hospital; and
   (e) Any other agency, organization, or facility deemed appropriate by the cabinet.

(2) Notwithstanding provisions for granting of a nonsubstantive review of a certificate of need application under KRS 216B.095, the cabinet shall review and approve the nonsubstantive review of an application seeking to increase the number of beds as permitted by KRS 216B.450 if the application is submitted by an eight (8) bed or sixteen (16) bed psychiatric residential treatment facility licensed and operating on July 13, 2004. The cabinet shall base its approval of expanded beds upon the psychiatric residential treatment facility's ability to meet standards designed by the cabinet to provide stability of care. The standards shall be promulgated by the cabinet in an administrative regulation in accordance with KRS Chapter 13A. An application under this subsection shall not be subject to any moratorium relating to certificate of need.

(3) All psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(4) All psychiatric residential treatment facilities shall be certified by the Joint Commission on Accreditation of Healthcare Organizations, or the Council on Accreditation, or any other accrediting body with comparable standards that is recognized by the state.

(5) A psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital. More than one (1) freestanding psychiatric residential treatment facility may be located on the same campus that is not in or on the grounds of a psychiatric hospital.

(6) The total number of psychiatric residential treatment facility beds shall not exceed three hundred and fifteen (315) beds statewide, and shall be distributed among the state mental hospital districts established by administrative regulations promulgated by the Cabinet for Health ***and Family*** Services under KRS 210.300 as follows:
   (a) District I for seventy-two (72) beds;
   (b) District II for ninety-nine (99) beds;
   (c) District III for ninety (90) beds; and
   (d) District IV for fifty-four (54) beds.

(7) (a) The Cabinet for Health ***and Family*** Services~~[and the Cabinet for Families and Children]~~ shall investigate the need for children's psychiatric residential treatment services for specialized populations including, but not limited to, sexual offenders, children with physical and developmental disabilities, and children with dual diagnoses.
   (b) The cabinets shall report to the Governor and the Legislative Research Commission by August 1, 2005, on a plan to enable children with specialized needs to be served in community-based psychiatric treatment facilities in

Kentucky. The plan shall include methods to:

1. Identify the specialized populations;
2. Develop services targeted for the specialized populations; and
3. Establish a Medicaid reimbursement rate for specialized facilities in Kentucky.

Section 512. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act. For the purposes of KRS 217.136 and 217.137, "bread" or "enriched bread" also means breads that may include vegetables or fruit as an ingredient;

(3) "Cabinet" means the Cabinet for Health ***and Family*** Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or

amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments, home-based processors, or home-based microprocessors;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the

cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858, and health care professionals who are residents of and actively practicing in a state other than Kentucky and who are licensed and have prescriptive authority under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for

sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment;

(51) "Home" means a primary residence occupied by the processor, that contains only two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators used for cold storage. This equipment shall have been designed for home use and not for commercial use, and shall be operated in the kitchen within the residence;

(52) "Formulated acid food product" means an acid food in which the addition of a small amount of low-acid food results in a finished equilibrium pH of 4.6 or below that does not significantly differ from that of the predominant acid or acid food;

(53) "Acidified food product" means a low-acid food to which acid or acidic food is added and which has a water activity value greater than 0.85, and a finished equilibrium pH of 4.6 or below;

(54) "Low-acid food" means foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6, and a water activity value greater than 0.85;

(55) "Acid food" means foods that have a natural pH of 4.6 or below;

(56) "Home-based processor" means a farmer who, in the farmer's home, produces or processes whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies;

(57) "Home-based microprocessor" means a farmer who, in the farmer's home or certified or permitted kitchen, produces or processes acid foods, formulated acid food products, acidified food products, or low-acid canned foods, and who has a net income of less than thirty-five thousand dollars ($35,000) annually from the sale of the product;

(58) "Certified" means any person or home-based microprocessor who:

(a) Has attended the Kentucky Cooperative Extension Service's microprocessing program or pilot microprocessing program and has been identified by the Kentucky Cooperative Extension Service as having satisfactorily completed the prescribed course of instruction; or

(b) Has attended some other school pursuant to 21 C.F.R. sec. 114.10; and

(59) "Farmer" means a person who is a resident of Kentucky and owns or rents agricultural land pursuant to subsection (9) of KRS 132.010 or horticultural land pursuant to subsection (10) of KRS 132.010. For the purposes of KRS 217.136 to 217.139, "farmer" also means any person who is a resident of Kentucky and has grown the primary horticultural and agronomic ingredients used in the home-based processed products which they have produced.

Section 513. KRS 217.177 is amended to read as follows:

(1) No person engaged in sales at retail shall display hypodermic syringes or needles in any portion of the place of business which is open or accessible to the public.

(2) Every person engaged in sales of hypodermic syringes or needles at retail shall maintain a bound record in which shall be kept:

(a) The name of the purchaser; and

(b) The address of the purchaser; and

(c) The quantity of syringes or needles purchased; and

(d) The date of the sale; and

(e) Planned use of such syringes or needles.

(3) Said record shall be maintained for a period of two (2) years from the date of the sale and shall be available for inspection during business hours by any law enforcement officer, agent or employee of the Cabinet for Health ***and Family*** Services or Board of Pharmacy engaged in the enforcement of KRS Chapter 218A.

(4) No person shall present false identification or give a false or fictitious name or address in obtaining or attempting to obtain any hypodermic syringe or needle.

(5) No person engaged in the retail sale of hypodermic syringes or needles shall:

(a) Fail to keep the records required by this section; or

(b) Fraudulently alter any record required to be kept by this section; or

(c) Destroy, before the time period required by this section has elapsed, any record required to be kept by this section; or

(d) Sell, or otherwise dispose of, any hypodermic syringe to any person who does not present the identification required by this section; or

(e) Disclose the names in said book except to those required by this section.

(6) Any physician, other licensed medical person, hospital, or clinic disposing of hypodermic syringes or needles shall crush the barrel of same or otherwise render the instrument incapable of further use.

Section 514. KRS 217.184 is amended to read as follows:

(1) All police officers and deputy sheriffs, directly employed full-time by state, county, city, or urban-county governments, the State Police, the Cabinet for Health ***and Family*** Services, the offices of all city, county, and Commonwealth's attorneys, the Office of the Attorney General, and any of their officers and agents, within their respective jurisdictions, shall enforce KRS 217.207, 217.208, 217.209, 217.181, and 217.182 relating to legend drugs and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to legend drugs.

(2) Designated agents of the Cabinet for ***Health and Family Services***[~~Human Resources~~] and the Kentucky Board of Pharmacy are empowered to remove from the files of any pharmacy or other custodian any prescription or other legend drug record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record and a copy of the records seized shall be returned to the pharmacist within a reasonable amount of time.

Section 515. KRS 217.285 is amended to read as follows:

(1) Each food service establishment, having an on-premises seating capacity of twenty-five (25) persons or more, shall post inside the establishment, in a location conspicuous to employees, a choke-saving techniques poster meeting the following requirements.

(2) The choke-saving techniques poster shall meet the following specifications:

(a) The poster shall depict through illustration and description procedures for the removal of food which is lodged in a person's throat; and

(b) The techniques illustrated and described shall include, but need not be limited to, the procedures whereby the choking person is grasped around the lower chest and upper abdomen and given a quick jerk, thus putting increased interabdominal pressure on the lungs and expelling the foreign matter.

(3) The Cabinet for Health ***and Family*** Services shall produce or requisition the production of the choke-saving techniques poster as provided in this section and shall supply the posters to the local health departments for distribution without cost to food establishments.

Section 516. KRS 217.380 is amended to read as follows:

(1) The officials in charge of the enforcement of the pure food laws of this state, the secretary for health ***and family*** services, the local health officers, and the duly appointed agents of all such, shall enforce the provisions of KRS 217.280 to 217.390. For this purpose such officers shall have full power at all times to enter every building, room, inclosure or premises occupied or used or suspected of being occupied or used for the preparation or manufacture for sale, or the storage, sale, distribution, or transportation, of such food, and to inspect the premises and all utensils, fixtures, furniture and machinery used therein.

(2) If upon inspection there is found any violation of any of the provisions of KRS 217.280 to 217.390, or if the preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employees or to the character or quality of the food, the officer or inspector making the inspection shall report the conditions and violations to the chief pure food official, or to the secretary for health ***and family*** services, or to the chief local health officer, as the case may be.

(3) The officer to whom the report is made shall thereupon issue a written order to the person responsible for the violation or condition to abate the condition or violation or to make the changes or improvements necessary to abate them, within a

reasonable time as fixed in the order. Notice of the order may be served by delivering a copy to the person, or by sending a copy by certified mail, return receipt requested in which case the post office receipt shall be prima facie evidence that the notice was received. The person shall have the right to appear in person or by attorney before the officer issuing the notice or the person appointed by him for that purpose, within the time limited in the order, and shall be given an opportunity to be heard and to show why the order or instructions should not be obeyed. The hearing shall be under rules and regulations prescribed by the secretary for health ***and family*** services. If after the hearing it appears that the provisions of KRS 217.280 to 217.390 have not been violated, the order shall be rescinded. If it appears that the provisions of KRS 217.280 to 217.390 are being violated, and that the person notified is responsible therefor, the previous order shall be confirmed or amended, as the facts warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with the final order. If the person is not present or represented when the final order is made, notice thereof shall be given as above provided. If the person fails to comply with the first order within the time prescribed, when no hearing is demanded, or fails to comply with the final order within the time specified, the facts shall be certified to the Commonwealth's, county or city attorney in whose jurisdiction the violation occurred, and such attorney shall proceed against the person for the applicable fines and penalties, and for abatement of the nuisance. The proceedings prescribed in this section for abatement of the nuisance shall not relieve the violator from prosecution in the first instance for every violation, nor from the penalties prescribed for such violation.

Section 517. KRS 217.544 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant, or as a functioning agent in a spray adjuvant;

(2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted;

(3) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;

(4) "Antidote" means the most practical immediate treatment in case of poisoning and includes first-aid treatment;

(5) "Board" means the Pesticide Advisory Board;

(6) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission;

(7) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue;

(8) "Device" means any instrument or contrivance other than a firearm which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than man and other bacteria, virus, or other microorganisms on or in living man or other living animals; but not including equipment used for the application of pesticides when sold separately therefrom;

(9) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and, having received, deliver or offer to deliver pesticides in this state;

(10) "Environment" includes water, air, land, and all plants and man and other animals living therein and the interrelationships which exist among these;

(11) "EPA" means the United States Environmental Protection Agency;

(12) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended;

(13) "Fungi" means all nonchlorophyll-bearing thallophytes; that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;

(14) "Highly toxic pesticide" means any pesticide determined to be highly toxic under the authority of sec. 25(c)(2) of FIFRA or by the department under this chapter;

(15) "Imminent hazard" means a situation which exists when the continued use of a pesticide would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the secretary of the United States Department of Interior under Pub. L. 91-135 of the United States Congress;

(16) "Inert ingredient" means an ingredient which is not an active ingredient;

(17) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide and, when the pesticide contains arsenic in any form, a statement of the percentage of total and water-soluble arsenic, each stated as elemental arsenic;

(18) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have

more than six (6) legs, as, for example, spiders, mites, ticks, centipedes, and wood lice, also nematodes and other invertebrates which are destructive, constitute a liability, and may be classed as pests;

(19) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device, or to any of its containers or wrappers;

(20) "Labeling" means the label and other written, printed, or graphic matter:

(a) On the pesticide or device, or any of its containers or wrappers;

(b) Accompanying the pesticide or device at any time or referring to it in any other media used to disseminate information to the public; and

(c) To which reference is made on the label or in the literature accompanying the pesticide or device, except when accurate nonmisleading reference is made to current official publications of the United States Environmental Protection Agency, the Departments of Agriculture and Interior, the Department of Health, Education and Welfare, and other similar federal institutions, the College of Agriculture, University of Kentucky, Kentucky Agricultural Experiment Station, Cabinet for Health ***and Family*** Services, Natural Resources and Environmental Protection Cabinet, or other agencies of this state or other states when such agencies are authorized by law to conduct research in the field of pesticides;

(21) "Land" means all land and water areas, including air space and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto, or situated thereon, fixed or mobile, including any used for transportation;

(22) "Misbranded" means a pesticide is misbranded if:

(a) Its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(b) It is an imitation of or is distributed under the name of another pesticide;

(c) The labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, together with any requirements imposed under section 3(d) of FIFRA are adequate to protect health and the environment;

(d) The labeling does not contain a statement of the use classification under which the product is registered by EPA;

(e) The label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of FIFRA, is adequate to protect health and the environment;

(f) The label does not bear an ingredient statement on that part of the immediate container, and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of the purchase; provided, that the ingredient statement may appear prominently on another part of the container pursuant to section 2(q) 2(A) (i) (ii) of FIFRA if the size and form of the container makes it impractical to place it on that part of the retail package which is presented or displayed under customary conditions of purchase;

(g) Any word, statement, or other information required by KRS 217.542 to 217.630 or FIFRA to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared to other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(h) The label does not bear the name, brand, or trademark under which the pesticide is distributed;

(i) The label does not bear the net weight or measure of the content;

(j) The label does not bear the name and address of the manufacturer, registrant, or person for whom manufactured; and

(k) The label does not bear the EPA registration number assigned to each establishment in which the product is produced and the EPA number assigned to the pesticide, if required by regulation under FIFRA;

(23) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms;

(24) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not;

(25) "Pest" means any insect, snail, slug, rodent, nematode, fungus, weed, and any other form of plant or animal life, or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest, or which the department may declare to be a pest;

(26) "Pesticide" means any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and any substance or mixture of substances intended to be used as a spray adjuvant;

(27) "Plant regulator" means any substance or mixture of substances, intended through physiological actions, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil

amendments;

(28) "Protect health and the environment" means protection against any unreasonable adverse effects on the environment;

(29) "Registrant" means a person who has registered any pesticide pursuant to the provisions of KRS 217.542 to 217.630;

(30) "Restricted-use pesticide" means any pesticide classified for restricted use by the administrator, EPA, or by regulation of the department;

(31) "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the other pesticide with which it is to be used;

(32) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide;

(33) "Weed" means any plant which grows where not wanted; and

(34) "Wildlife" means all living things that are neither human, domesticated, nor as defined in KRS 217.542 to 217.630, pests, including but not limited to mammals, birds, and aquatic life.

Section 518. KRS 217.660 is amended to read as follows:

As used in KRS 217.650 to 217.710 unless the context indicates otherwise:

(1) "Secretary" means the secretary for health ***and family*** services;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(3) "Person" includes any individual, partnership, corporation, firm, or association;

(4) "Hazardous substance" means any substance or mixture of substances which is:

(a) "Toxic" and has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface, including toxic substances which are poisonous;

(b) "Corrosive" on contact with living tissue causing substantial destruction of tissue by chemical action, but does not refer to action on inanimate surfaces;

(c) "Irritant" and not corrosive within the meaning of paragraph (b), which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction;

(d) "Strong sensitizer" and will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the secretary;

(e) "Flammable" with a flashpoint of eighty (80) degrees Fahrenheit or below;

(f) "Radioactive" as a result of disintegration of unstable atomic nuclei and emits energy;

(g) Capable of generating pressure through decomposition, heat, or other means;

(h) Capable of causing substantial personal injury or illness during any customary or reasonably anticipated handling or use; and

(5) "Label" means a display of written, printed, or graphic matter upon the immediate container of any substance, or that is easily legible through the outside container or wrapper.

Section 519. KRS 217.801 is amended to read as follows:

(1) Paint manufactured after July 1, 1972, containing more than one-half of one percent (.5%) lead by weight of the nonvolatile content shall not be sold, or used on any toys, children's furniture, interior surface of any dwelling, or any other surface easily accessible to children under the age of seven (7) years. Such paints shall not be manufactured, sold, or used for any other purpose which would ultimately result in exposure to children under the age of seven (7) years unless proper application and documentation is made to the Cabinet for Health ***and Family*** Services and the cabinet determines that no health hazard or danger to children exists from the intended use.

(2) All paints manufactured in this state after July 1, 1972, which will be used in this state will be clearly labeled as to use and hazard when containing more than one-half of one percent (.5%) lead by weight of the total nonvolatile content.

(3) The above provisions of subsections (1) and (2) of this section shall apply to all paints containing more than six one-hundredths of one percent (.06%) lead by weight of the total nonvolatile content after January 1, 1974.

Section 520. KRS 217.809 is amended to read as follows:

No person shall operate a vending machine company without having first obtained a permit to operate from the Cabinet for Health ***and Family*** Services as provided in the regulations of the Cabinet for Health ***and Family*** Services. All such permits shall expire on June 30 following the date of issue. The Cabinet for Health ***and Family*** Services shall adopt regulations relating to vending machines. KRS 217.808 to 217.812 do not apply to blind persons who operate vending machines as part of a program established by federal or state law.

Section 521. KRS 217.812 is amended to read as follows:

All fees collected by the Cabinet for Health ***and Family*** Services under the provisions of KRS 217.808 to 217.812 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in defraying the costs and expenses of the cabinet in the administration of KRS 217.808 to 217.812. Such funds may be expended for training of state and local sanitation personnel. The balance of this fund shall revert to the general fund of the Commonwealth at the end of each biennium.

Section 522. KRS 217.950 is amended to read as follows:

(1) Amygdalin (laetrile) may be manufactured in this state subject to licensing and regulation by the Cabinet for Health ***and Family*** Services. The secretary of the cabinet shall adopt regulations which prescribe minimum standards for manufacturers in preparing, compounding, processing, and packaging the substance. The secretary shall establish standards of purity and shall make periodic tests and inspections of both the facilities for manufacture and samples of the substance to ascertain the purity, quality, and identity of the substance and to determine that the substance meets the standards so established.

(2) The Cabinet for Health ***and Family*** Services shall make no rule or regulation which would prohibit the use of amygdalin (laetrile) in any hospital, ambulatory outpatient surgical center, or health-care facility licensed by it.

Section 523. KRS 217.993 is amended to read as follows:

(1) Any person violating any provisions of KRS 217.650 to 217.710 shall be guilty of a violation. Each day of violation shall constitute a separate offense.

(2) Any person violating any provisions of KRS 217.900(2) shall upon conviction be guilty of a Class B misdemeanor.

(3) Any person found guilty of inhaling a volatile substance in violation of KRS 217.900(2) may be ordered to a facility designated by the secretary of the Cabinet for Health ***and Family*** Services, where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if, any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment or may order the person subject to the fine or imprisonment, or both, for a Class B misdemeanor. Upon discharge of the person from the facility by the clinical director or his designee prior to the expiration of the ninety (90) day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The clinical director or his designee shall notify the sentencing court of the date of such discharge from the facility.

(4) The secretary of the Cabinet for Health ***and Family*** Services or his designee shall inform each court of the identity and location of the facility to which a person may be ordered under this section.

(5) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for Health ***and Family*** Services unless the facility shall arrange otherwise.

(7) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(8) Any person violating any provision of KRS 217.900(3) shall upon conviction be guilty of a Class D felony.

Section 524. KRS 217C.030 is amended to read as follows:

As used in this chapter:

(1) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services.

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services.

Section 525. KRS 217C.070 is amended to read as follows:

(1) The secretary for health ***and family*** services shall appoint a grade A milk advisory committee composed of eight (8) appointive members. Three (3) members shall be processors, or representatives thereof; three (3) members shall be producers, or representatives thereof; and two (2) members shall be citizens at large, as representatives of consumers.

(2) The secretary for health ***and family*** services shall appoint a milk-for-manufacturing advisory committee composed of eight (8) appointive members. Four (4) members shall be processors, or representatives thereof; two (2) members shall be producers, or representatives thereof; and two (2) members shall be citizens at large, as representatives of consumers.

(3) The secretary for health ***and family*** services or his designated representative shall be an ex officio member and secretary of each committee. The appointments to each committee shall be made for a term of four (4) years, or until their successors are appointed and qualify, except that the terms of office of the members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, two (2) members shall be appointed for three (3) years and two (2) members shall be appointed for four (4) years and the respective terms of the first members shall be designated by the secretary for health ***and family*** services at the time of their appointment. Such members shall serve without compensation but may be reimbursed for necessary traveling expenses. Procedures for

selection of advisory nominees shall be in accordance with the regulations of the secretary.

Section 526. KRS 217C.990 is amended to read as follows:

Any person who violates any provision of this chapter, or any rule or regulation adopted hereunder, or who fails to comply with an order of the Cabinet for Health ***and Family*** Services issued pursuant thereto, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each day of violation or noncompliance shall constitute a separate offense.

Section 527. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.

(3) "Cabinet" means the Cabinet for Health ***and Family*** Services.

(4) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.

(5) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.

(6) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(7) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(8) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.

(9) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.

(11) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance,

the control of which is necessary to prevent, curtail, or limit manufacture.

(12) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.

(13) "Manufacture", except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(14) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.

(15) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.

(16) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(17) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(18) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(19) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(20) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(21) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, or veterinarian who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail.

(22) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(23) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.

(24) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(25) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or

subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.

(26) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(27) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(28) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.

(29) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(30) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

Section 528. KRS 218A.020 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall administer this chapter and may by regulation add substances to or delete or reschedule all substances enumerated in the schedules set forth in this chapter. In making a determination regarding a substance, the Cabinet for Health ***and Family*** Services may consider the following:

(a) The actual or relative potential for abuse;
(b) The scientific evidence of its pharmacological effect, if known;
(c) The state of current scientific knowledge regarding the substance;
(d) The history and current pattern of abuse;
(e) The scope, duration, and significance of abuse;
(f) The risk to the public health;
(g) The potential of the substance to produce psychic or physiological dependence liability; and
(h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(2) After considering the factors enumerated in subsection (1) the Cabinet for Health ***and Family*** Services may adopt a regulation controlling the substance if it finds the substance has a potential for abuse.

(3) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the Cabinet for Health ***and Family*** Services, the Cabinet for Health ***and Family*** Services may similarly control the substance under this chapter by regulation.

(4) The Cabinet for Health ***and Family*** Services shall exclude any nonnarcotic substance from a schedule if the substance may be lawfully sold over the counter without prescription under the provisions of the Federal Food, Drug and Cosmetic Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, or the Kentucky Revised Statutes (for the purposes of this section the Kentucky Revised Statutes shall not include any regulations issued thereunder).

Section 529. KRS 218A.040 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

Section 530. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health ***and Family*** Services, the controlled substances listed in this section are included in Schedule I:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, or salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene;

Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, including their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, or salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including, but not limited to, Methcathinone, Cat, and Ephedrone).

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: gamma hydroxybutyric acid.

Section 531. KRS 218A.060 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

Section 532. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health ***and Family*** Services, the controlled substances listed in this section are included in Schedule II:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

 (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

 (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;

 (c) Opium poppy and poppy straw;

 (d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone-Intermediate; 4-cyano-2-dimethylamino-4; 4-diphenyl butane; Moramide-Intermediate; 2-methyl-3-morpholino-1; 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine, Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

 (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

 (b) Phenmetrazine and its salts;

 (c) Methylphenidate.

Section 533. KRS 218A.080 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall place a substance in Schedule III if it finds that:

(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

Section 534. KRS 218A.090 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health ***and Family*** Services, the controlled substances listed in this section are included in Schedule III:

(1) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid; chlorhexadol; glutethimide; lysergic acid; lysergic acid amide; methyprylon; sulfondiethylmethane; sulfonethylmethane; sulfonmethane.

(2) Nalorphine.

(3) Pentazocine (parenteral or injectable form only).

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

  (a) Not more than one and four-fifths (1.8) grams of codeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

  (b) Not more than one and four-fifths (1.8) grams of codeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or more active nonnarcotic ingredients in recognized therapeutic amounts;

  (c) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

  (d) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

  (e) Not more than one and four-fifths (1.8) grams of dihydrocodeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

  (f) Not more than three hundred (300) milligrams of ethylmorphine, or any of its salts per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;

  (g) Not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

  (h) Not more than fifty (50) milligrams of morphine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

  (i) The Cabinet for Health ***and Family*** Services may except by regulation any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(5) Any material, compound, mixture, or preparation containing any quantity of any of the following anabolic steroid substances, or any isomer, ester, salt, or derivative thereof:

  (a) Boldenone;

  (b) Clostebol;

  (c) Dehydrochlormethyltestosterone;

  (d) Drostanolone;

  (e) Ethylestrenol;

  (f) Fluoxymesterone;

  (g) Formebulone;

  (h) Mesterolone;

  (i) Methandienone;

(j) Methandriol;
(k) Methenolone;
(l) Methyltestosterone;
(m) Mibolerone;
(n) Nandrolone;
(o) Norethandrolone;
(p) Oxandrolone;
(q) Oxymesterone;
(r) Oxymetholone;
(s) Stanolone;
(t) Stanozolol;
(u) Testolactone;
(v) Testosterone; and
(w) Trenbolone.

(6) This section shall not apply to any material, compound, mixture, or preparation containing any quantity of an anabolic steroid substance, or any isomer, ester, salt, or derivative thereof that is expressly intended for administration through implant to livestock or other nonhuman species, and that is approved by the United States Food and Drug Administration for such use.

Section 535. KRS 218A.100 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

Section 536. KRS 218A.110 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health ***and Family*** Services, the controlled substances listed in this section are included in Schedule IV:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: chloral betaine; chloral hydrate; ethchlorvynol; ethinamate; meprobamate; paraldehyde; petrichloral.

(2) The Cabinet for Health ***and Family*** Services may except by regulation any compound, mixture, or preparation containing any depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Section 537. KRS 218A.120 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

Section 538. KRS 218A.130 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health ***and Family*** Services the controlled substances listed in this section are included in Schedule V:

Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone: Not more than two hundred (200) milligrams of codeine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams.

Section 539. KRS 218A.150 is amended to read as follows:

(1) No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce, or prepare controlled substances, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the Cabinet for Health ***and Family*** Services. The Cabinet for Health ***and Family*** Services may adopt regulations and set reasonable fees relating to the issuance and renewal of such licenses. All such licenses shall expire on June 30, following

the date of issue, unless renewed. All such fees shall be deposited in a revolving fund to be used by the cabinet in carrying out the provisions of this chapter.

(2) No person shall manufacture any controlled substance except under the direct supervision of a pharmacist.

Section 540. KRS 218A.160 is amended to read as follows:

(1) No manufacturer's or wholesaler's license shall be issued pursuant to this chapter unless the applicant therefor has furnished satisfactory proof:

(a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to controlled substances and is of good moral character or, if the applicant be an association or corporation that the managing officers are of good moral character;

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.

(2) No license shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.

(3) The Cabinet for Health ***and Family*** Services may suspend or revoke any license for cause.

(4) Upon appeal of any action taken under authority of this section, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 541. KRS 218A.190 is amended to read as follows:

(1) Nonprescription medicinal preparations that contain in one hundred (100) milliliters, or as a solid or semisolid preparation, in one hundred (100) grams, not more than two hundred (200) milligrams of codeine or its salts may be sold over the counter subject to the following conditions:

(a) That the medicinal preparation shall contain in addition to the codeine in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the codeine alone;

(b) That such preparation shall be dispensed or sold in good faith as a medicine, and not for the purpose of evading the provisions of this chapter;

(c) That such preparation shall only be sold at retail without a prescription to a person at least eighteen (18) years of age and only by a pharmacist. An employee may complete the actual cash or credit transaction or delivery;

(d) That such preparations shall not be displayed in areas of the pharmacy open to the public; and

(e) That no person shall purchase and no pharmacist or practitioner shall sell to the same person within a forty-eight (48) hour period more than one hundred twenty (120) milliliters of an exempt codeine preparation. Any person purchasing in excess of this limitation shall be deemed to be in illegal possession.

(2) All wholesalers, manufacturers, and repackers shall keep a separate exempt codeine registry showing the following:

(a) Date;

(b) Registration number of recipient;

(c) Name of recipient;

(d) Address;

(e) Name of preparation; and

(f) Quantity.

(3) All pharmacists and practitioners shall keep a separate exempt codeine registry showing the following:

(a) Date;

(b) Name of recipient;

(c) Address;

(d) Name of preparation;

(e) Quantity; and

(f) Pharmacist's or practitioner's name.

(4) Notwithstanding any other provision of this section, the Cabinet for Health ***and Family*** Services may by regulation specifically prohibit any such codeine preparation from being sold over the counter due to actual or potential abuse.

Section 542. KRS 218A.200 is amended to read as follows:

(1) Every practitioner who is authorized to administer or professionally use controlled substances, shall keep a record of substances received by him, and a record of all substances administered, dispensed, or professionally used by him otherwise than by prescription. Every such record shall be kept for a period of five (5) years.

(2) Manufacturers and wholesalers shall keep records of all controlled substances compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all controlled substances received and disposed of by them. Every such record shall be kept for a period of two (2) years.

(3) Pharmacists shall keep records of all controlled substances received and disposed of by them. Every such record shall be kept for a period of five (5) years.

(4) The record of controlled substances received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received. The record of all controlled substances sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered, or dispensed, and the kind and quantity.

(5) The keeping of a record under the federal controlled substances laws, containing substantially the same information as is specified in subsection (4) of this section, shall constitute compliance with this section.

(6) A copy of the detailed list of controlled substances lost, destroyed, or stolen shall be forwarded to the Cabinet for Health ***and Family*** Services as soon as practical.

(7) (a) Every manufacturer, distributor, wholesaler, repacker, practitioner, pharmacist, or other person authorized to possess controlled substances shall take an inventory of all controlled substances in his possession at least every two (2) years.

(b) A substance which is added to any schedule of controlled substances and which was not previously listed in any schedule shall be initially inventoried within thirty (30) days of the effective date of the statute or administrative regulation which adds the substance to the provisions of this chapter. Thereafter, the substance shall be included in the inventory required by paragraph (a) of this subsection.

(8) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor for a first offense and a Class D felony for subsequent offenses.

Section 543. KRS 218A.202 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy.

(2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.

(3) Every dispenser within the Commonwealth or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy shall report to the Cabinet for Health ***and Family*** Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:

(a) A drug administered directly to a patient; or

(b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.

(4) Data for each controlled substance that is dispensed shall include but not be limited to the following:

(a) Patient identifier;

(b) Drug dispensed;

(c) Date of dispensing;

(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(5) The data shall be provided in the electronic format specified by the Cabinet for Health ***and Family*** Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.

(6) The Cabinet for Health ***and Family*** Services shall be authorized to provide data to:

(a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

(c) A state-operated Medicaid program;

(d) A properly convened grand jury pursuant to a subpoena properly issued for the records;

(e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;

(f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:

1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing practices;

2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or

3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or

(g) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.

(7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care physician.

(8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction, except that:

(a) A peace officer specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with other peace officers specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and

(b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in paragraph (a) of subsection (6) of this section, or with a law enforcement officer designated in paragraph (b) of subsection (6) of this section; and

(c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(9) The Cabinet for Health ***and Family*** Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(11) Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.

(12) Knowing disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony.

(13) The Governor's Office for Technology, in consultation with the Cabinet for Health ***and Family*** Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:

(a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and

(b) Study the use of an interactive system that includes a relational data base with query capability.

(14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.

(15) The Cabinet for Health ***and Family*** Services may limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.

(16) (a) The Cabinet for Health ***and Family*** Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(c) The cabinet shall work with the Justice Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

Section 544. KRS 218A.204 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations in accordance with KRS Chapter 13A that establish security requirements for all prescriptions written by practitioners. The administrative regulations shall include a procedure to obtain a waiver for prescription blanks that provide substantially equivalent protection against forgery.

Section 545. KRS 218A.230 is amended to read as follows:

All controlled substances, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited and disposed of as follows:

(1) Except as otherwise provided in this section, the court having jurisdiction shall order such controlled substances forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept.

(2) The court by whom the forfeiture of controlled substances has been decreed may order the delivery of same to the Cabinet for Health ***and Family*** Services for destruction. Practitioners, pharmacists, hospitals, and nursing homes may voluntarily surrender controlled substances to the Cabinet for Health ***and Family*** Services for destruction.

(3) The Cabinet for Health ***and Family*** Services shall keep a record of all substances received and of all substances disposed of, showing the exact kinds, quantities, and forms of such substances, the persons from whom received and the time, place, and manner of destruction.

(4) Prescriptions, orders, and records, required by this chapter, and stocks of controlled substances, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

(5) No pharmacist, practitioner, manufacturer, or wholesaler or other custodian of records, prescriptions, or orders required by this chapter shall refuse to permit the inspection thereof by any federal, state, county or municipal officer whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

Section 546. KRS 218A.240 is amended to read as follows:

(1) All police officers and deputy sheriffs directly employed full-time by state, county, city, or urban-county governments, the State Police, the Cabinet for Health ***and Family*** Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

(2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for Health ***and Family*** Services shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the purpose of obtaining evidence and to use data obtained under KRS 218A.202(7) in any administrative proceeding before the cabinet.

(3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the Cabinet for Health ***and Family*** Services.

(4) Designated agents of the Cabinet for Health ***and Family*** Services and the Kentucky Board of Pharmacy are empowered to remove from the files of a pharmacy or the custodian of records for that pharmacy any controlled substance prescription or other controlled substance record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record. A receipt for the record shall be a defense to a charge of failure to maintain the record.

(5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter, or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.

(a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.

(b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.

(c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his costs, including a reasonable attorney's fee.

(d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.435, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his percentage of the funds shall go to the agency initiating the forfeiture action.

(6) The Cabinet for Health ***and Family*** Services shall make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether any provision has been violated.

(7) (a) The Cabinet for Health ***and Family*** Services shall use the data compiled in the electronic system created in KRS 218A.202 for investigations, research, statistical analysis, and educational purposes, and shall proactively identify trends in controlled substance usage and other potential problem areas. Only cabinet personnel who have undergone training for the electronic system and who have been approved to use the system shall be authorized access to the data and reports under this subsection. The cabinet shall notify a board responsible for the licensure, regulation, or discipline of each practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances, if a report or analysis conducted under this subsection indicates that further investigation about inappropriate or unlawful prescribing or dispensing may be necessary by the board.

(b) The cabinet shall develop criteria, in collaboration with the Board of Medical Licensure and the Board of Pharmacy, to be used to generate trend reports from the data obtained by the system. Meetings at which the criteria are developed shall be meetings, as defined in KRS 61.805, that comply with the open meetings laws, KRS 61.805 to 61.850.

(c) The cabinet shall, on a quarterly basis, publish trend reports from the data obtained by the system.

(d) Peace officers authorized to receive data under KRS 218A.202 may request trend reports not specifically published pursuant to paragraph (c) of this subsection. A report under this paragraph may be based upon the criteria developed under paragraph (b) of this subsection or upon any of the data collected pursuant to KRS 218A.202(4), except that the report shall not identify an individual prescriber, dispenser, or patient.

(e) No trend report generated under this subsection shall identify an individual prescriber, dispenser, or patient.

Section 547. KRS 218A.245 is amended to read as follows:

(1) The secretary of the Cabinet for Health ***and Family*** Services may enter into reciprocal agreements with any other state or states of the United States to share prescription drug monitoring information if the other state's prescription drug monitoring program is compatible with the program in Kentucky. If the secretary elects to evaluate the prescription drug monitoring program of another state as authorized by this section, priority shall be given to a state that is contiguous with the borders of the Commonwealth.

(2) In determining compatibility, the secretary shall consider:

(a) The essential purposes of the program and the success of the program in fulfilling those purposes;

(b) The safeguards for privacy of patient records and its success in protecting patient privacy;

(c) The persons authorized to view the data collected by the program;

(d) The schedules of controlled substances monitored;

(e) The data required to be submitted on each prescription;

(f) Any implementation criteria deemed essential for a thorough comparison; and

(g) The costs and benefits to the Commonwealth in mutually sharing particular information available in the Commonwealth's database with the program under consideration.

(3) The secretary shall review any agreement on an annual basis to determine its continued compatibility with the Kentucky prescription drug monitoring program.

(4) The secretary shall prepare an annual report to the Governor and the Legislative Research Commission that summarizes any agreement under this section and that analyzes the effectiveness of that agreement in monitoring the dispensing of controlled substances in the Commonwealth.

(5) Any agreement between the cabinet and another state shall prohibit the sharing of information about a Kentucky resident, practitioner, pharmacist, or other prescriber for any purpose not otherwise authorized by this section or KRS 218A.202.

Section 548. KRS 218A.250 is amended to read as follows:

The Cabinet for Health ***and Family*** Services shall promulgate administrative regulations pursuant to KRS Chapter 13A for carrying out the provisions of this chapter. Administrative hearings on appeals filed pursuant to this chapter shall be conducted in accordance with KRS Chapter 13B.

Section 549. KRS 218A.275 is amended to read as follows:

(1) Any person found guilty of possession of a controlled substance pursuant to KRS 218A.1416 or 218A.1417 may for a first offense, be ordered to a facility designated by the secretary of the Cabinet for Health ***and Family*** Services where a program of treatment and rehabilitation not to exceed one (1) year in duration may be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the

person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for Health ***and Family*** Services, or his designee, prior to the expiration of the one (1) year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(2) The secretary of the Cabinet for Health ***and Family*** Services, or his designee, shall inform each court of the identity and location of the facility to which such person is sentenced.

(3) Transportation to the facility shall be provided by order of the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(4) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(5) The secretary for health ***and family*** services, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the Cabinet for Health ***and Family*** Services, unless the person and the facility shall arrange otherwise.

(7) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from any facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the Cabinet for Health ***and Family*** Services, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates; in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(8) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(9) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a first offense for purposes of this chapter or deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of a conviction under the subsection and dismissal may occur only once with respect to any person.

Section 550. KRS 218A.276 is amended to read as follows:

(1) Any person found guilty of possession of marijuana pursuant to KRS 218A.1422 may be ordered to a facility designated by the secretary of the Cabinet for Health ***and Family*** Services where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration may be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for Health ***and Family*** Services, or his designee, prior to the expiration of the ninety (90) day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(2) The secretary of the Cabinet for Health ***and Family*** Services, or his designee, shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(3) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by order of the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(4) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(5) The secretary of the Cabinet for Health ***and Family*** Services, or his designee, may authorize transfer of the person from

the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for Health ***and Family*** Services, unless the person and the facility shall arrange otherwise.

(7) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(8) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a first offense for purposes of this chapter or deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

Section 551. KRS 218A.420 is amended to read as follows:

(1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for Health ***and Family*** Services by promulgated regulations. Property other than controlled substances may be destroyed on order of the trial court.

(3) When property other than controlled substances is forfeited under this chapter, the law enforcement agency may, subject to the provisions of KRS 218A.435:

(a) Retain it for official use;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be paid into the fund created in KRS 218A.435. Any sale shall be a public sale advertised pursuant to KRS Chapter 424.

Section 552. KRS 218A.435 is amended to read as follows:

(1) There is created a trust and revolving fund in the executive branch of state government to be known as the "Asset Forfeiture Trust Fund" referred to in this section as the "trust fund."

(2) The trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the agency which will receive disbursements from the trust fund as provided in this section.

(3) The trust fund shall be managed by the state Office for Investment and Debt Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund shall be administered and audited by the Justice Cabinet. The secretary of justice or his designee shall promulgate administrative regulations necessary to further the purposes of KRS 218A.405 to 218A.460.

(5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice Cabinet for costs associated with administration of the fund.

(6) The Justice Cabinet shall, upon advice from the Office for Investment and Debt Management, allocate the moneys in the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.

(7) The principal of the trust fund shall be distributed as follows:

(a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;

(b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for Health ***and Family*** Services to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;

(c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Department of Corrections to be used solely for programs related to drug enforcement and incarceration; and

(d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program-related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.

(8) The Attorney General, the secretary of the Cabinet for Health ***and Family*** Services, the commissioner of the Department of Corrections, and the secretary of the Justice Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to their respective agencies shall be spent and the method by which those moneys shall be disbursed to local entities.

(9) On July 13, 1990, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(10) On July 13, 1990, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently employed attend asset-forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset-forfeiture training.

(11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency and shall not be paid into the trust fund and shall not be considered for purposes of the limits established in subsection (12) of this section. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.

(12) Other provisions of law notwithstanding, the first fifty thousand dollars ($50,000) of forfeited coin or currency or of the proceeds from sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient. In addition, forty-five percent (45%) of all proceeds above fifty thousand dollars ($50,000) shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.

(13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

Section 553. KRS 219.011 is amended to read as follows:

As used in KRS 219.011 to 219.081:

(1) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services or its designee;

(3) "Hotel" means every building or structure kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are furnished to the public, and includes motels, tourist homes, and similar establishments, but excludes boarding houses and rooming houses; and

(4) "Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity owning or operating a hotel.

Section 554. KRS 219.320 is amended to read as follows:

As used in KRS 219.330 to 219.410:

(1) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(3) "Manufactured home" means a single-family residential dwelling constructed in accordance with the National Manufactured Housing Construction in Safety Standards Act, manufactured after June 15, 1976, and designed to be used as a single-family residential dwelling with or without a permanent foundation when connected to the required utilities, and including plumbing, heating, air conditioning, and electrical systems. A manufactured home may also be used as a place of business, profession, or trade by the owner, the lessee, or the assigns of the owner or lessee and may comprise an integral unit or condominium structure. Buildings, the construction of which are not preempted by the National Manufactured Housing Construction in Safety Standards Act, are subject to the building code requirements of KRS Chapter 198B;

(4) "Mobile home" means a structure manufactured prior to June 15, 1976, that was not required to be constructed in accordance with the National Manufactured Housing Construction in Safety Standards Act, that is transportable in one (1) or more sections, that, in the traveling mode is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site, four hundred (400) or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling on a temporary or permanent foundation, when connected with the permanent required

utilities, including plumbing, heating, air conditioning, and electrical systems;

(5) "Manufactured or mobile home lot" means a parcel of land in a manufactured or mobile home community for the placement of a single manufactured or mobile home;

(6) "Manufactured or mobile home community" means a parcel of land, under single or multiple ownership and developed specifically for the purpose of leasing two (2) or more residential spaces for the location of manufactured or mobile home dwellings and which contain common facilities and utilities located on the premises as licensed by the cabinet;

(7) "Community" means a manufactured home, mobile home, and recreational vehicle community;

(8) "ANSI/NFPA" means the American National Standards Institute/National Fire Protection Association;

(9) "Underskirting" means a weather resistant material used to enclose the space from the bottom of a manufactured or mobile home to grade;

(10) "Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity owning or operating a community;

(11) "Recreational vehicle" means any of the following:

(a) "Travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation, or vacation;

(b) "Pickup coach" means a structure designed to be mounted on a truck for use as a temporary dwelling for travel, recreation, or vacation;

(c) "Motorhome" means a portable, temporary dwelling to be used for travel, recreation, or vacation, constructed as an integral part of a self-propelled vehicle;

(d) "Camping trailer" means a canvas or other collapsible folding structure, mounted on wheels and designed for travel, recreation, or vacation use;

(e) "Dependent recreational vehicle" means a recreational vehicle which does not have toilet, lavatory, or bathing facilities; or

(f) "Self-contained recreational vehicle" means a recreational vehicle which can operate independent of connections to sewer, water, and electric systems. It contains a water-flushed toilet, lavatory, shower or bath, kitchen sink, all of which are connected to water storage and sewage holding tanks located within the recreational vehicle;

(12) "Recreational vehicle community" means a parcel of land available to the public in which two (2) or more recreational vehicle spaces are occupied or intended for occupancy by recreational vehicles for transient dwelling purposes and includes any service building, structure, enclosure, or other facility used as a part of the community;

(13) "Recreational vehicle space" means a parcel of land in a recreational vehicle community for the placement of a single recreational vehicle;

(14) "Sanitary station" means a facility used for receiving and disposing of wastes from recreational vehicle holding tanks;

(15) "Service building" means a building containing water closets, urinals, lavatories, and bathing facilities for use by persons using the community; and

(16) "Watering station" means a facility for filling the water storage tanks of recreational vehicles with potable water from an approved water system.

Section 555. KRS 219.350 is amended to read as follows:

No community shall be constructed or altered without a permit as provided in KRS 219.310 to 219.410. An application for a permit to construct or alter a community shall be made to the cabinet upon forms provided by it. The application shall include plans for construction or alteration of the community and shall contain such information in regard to the proposed community as the cabinet may reasonably require, which may include affirmative evidence of ability to comply with requirements of KRS 219.310 to 219.410 and regulations adopted by the secretary. All plans for the construction, installation, or alteration of buildings shall be forwarded by the cabinet to the Department of Housing, Buildings and Construction. Only the Department of Housing, Buildings and Construction shall review such plans for conformance with the Uniform State Building Code. The Department of Housing, Buildings and Construction shall expedite the review of such plans and return them to the Cabinet for Health ***and Family*** Services for completion of the application process. Each application for a permit to construct or alter a community shall be accompanied by a permit fee of forty-seven dollars ($47). The cabinet may, by administrative regulation, increase this fee by no more than five percent (5%) per year, not to exceed a maximum fee of seventy dollars ($70). Each permit to construct shall be issued only for the person and premises, including the number of spaces named in the application and shall not be transferable. Each permit to construct shall expire one (1) year from date of issuance.

Section 556. KRS 219.390 is amended to read as follows:

(1) For the purpose of assisting in the developing and review of standards and regulations for the administration of KRS 219.310 to 219.410, there is hereby created a State Advisory Committee on Manufactured, Mobile Home, and Recreational Vehicle Communities. The committee shall be composed of twelve (12) members. The secretary for health ***and family*** services or his designee shall be an ex officio member. The other members shall be appointed by the secretary for health ***and family*** services, three (3) of whom shall represent manufactured and mobile home community owners, two

(2) of whom shall represent manufactured and mobile home dealers, two (2) of whom shall represent recreational vehicle dealers or community owners, two (2) of whom shall represent local health departments, one (1) of whom shall represent the office of the state fire marshal, and one (1) member who shall be a citizen at large.

(2) All appointed members shall serve for a term of four (4) years except that, of the original appointees, two (2) shall serve for one (1) year, two (2) shall serve for two (2) years, two (2) shall serve for three (3) years, and two (2) shall serve for four (4) years. All vacancies shall be filled in the manner of original appointment for the unexpired portion of the term only.

(3) Members of the committee shall receive no compensation for their services, but may be reimbursed for necessary travel expenses.

Section 557. KRS 221.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(3) "Food" includes any article used by man for food, drink, confectionery, or condiment, or which enters into the composition of the same whether simple, blended, mixed, or compounded;

(4) "Frozen food locker plant" means a location or establishment in which space in individual lockers is rented to persons for storage of frozen food and which is equipped with a chill room, sharp-freezing facilities, and facilities for cutting, preparing, wrapping, and packaging meats and meat products, fruits, and vegetables;

(5) "Branch frozen food locker plant" means a location or establishment in which space in individual lockers is rented to persons for storage of frozen food after preparation for storage at a frozen food locker plant; and

(6) "Sharp-frozen" means the freezing of food in a room in which the temperature is zero (0) degrees Fahrenheit or lower.

Section 558. KRS 222.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrator" means the person or the designee of the person, in charge of the operation of an alcohol and other drug abuse prevention, intervention, or treatment program;

(2) "Agency" means a legal entity operating hospital-based or nonhospital-based alcohol and other drug abuse prevention, intervention, or treatment programs;

(3) "Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:

  (a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;

  (b) Use in situations which are potentially physically hazardous;

  (c) Loss of control over the use of alcohol or other drugs or both; and

  (d) Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence, including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both;

(4) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(5) "Director" means the director of the Division of ***Mental Health and*** Substance Abuse ***Services*** of the Department for Mental Health and Mental Retardation Services;

(6) "Hospital" means an establishment with organized medical staff and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical;

(7) "Intoxication" means being under the influence of alcohol or other drugs, or both, which significantly impairs a person's ability to function;

(8) "Juvenile" means any person who is under the age of eighteen (18);

(9) "Narcotic treatment program" means a substance abuse program using approved controlled substances and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group;

(10) "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900;

(11) "Patient" means any person admitted to a hospital or a licensed alcohol and other drug abuse treatment program;

(12) "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening, or treating alcohol and other drug abuse problems;

(13) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services;

(14) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and persons suffering from alcohol and other drug abuse. "Treatment" includes those services provided by the cabinet in KRS 222.211 and, in KRS

222.430 to 222.437, it specifically includes the services described in KRS 222.211(1)(c) and (d); and

(15) "Qualified health professional" has the same meaning as qualified mental health professional in KRS 202A.011, except that it also includes an alcohol and drug counselor certified under KRS Chapter 309.

Section 559. KRS 222.037 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services may establish four (4) or more pilot projects within the Commonwealth to demonstrate the effectiveness of different methods of providing community services to prevent smoking and alcohol and substance abuse by pregnant females; improving agency coordination to better identify the pregnant smoker and substance abuser and other females who have smoking and substance abuse problems; linking with community services and treatment for the chemically dependent woman, her children, and other family members; and gaining access to early intervention services for infants in need.

(2) The cabinet may use any state appropriation and any gifts, grants, or federal funds that become available for the purposes of implementing the provisions of this section.

Section 560. KRS 222.212 is amended to read as follows:

Notwithstanding the provisions of Chapter 13A, all administrative regulations promulgated by the Cabinet for Human Resources relating to the licensing of alcohol and drug abuse prevention, education, and treatment programs and on file with the Legislative Research Commission on July 15, 1994, shall remain in full force and effect unless subsequently amended or repealed by the Cabinet for Health ***and Family*** Services.

Section 561. KRS 223.010 is amended to read as follows:

As used in KRS 223.020 to 223.080, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(2) "Registered environmental health specialist or sanitarian" means a person trained in the field of environmental health who has qualified for registration in accordance with the provisions of this chapter;

(3) "Secretary" means the secretary of the Cabinet for Health ***and Family*** Services; and

(4) "Environmental health activity" means those program areas administered by the state and local health departments including, but not limited to, food protection, control of insect and rodents, radiation, private water supplies, on-site waste, and other environmental program areas. The term does not cover programs not administered by the cabinet.

Section 562. KRS 223.020 is amended to read as follows:

(1) The secretary shall appoint a registered environmental health specialist or a sanitarian examining committee consisting of five (5) members. The secretary of the Cabinet for Health ***and Family*** Services shall be an ex officio member. The other four (4) members shall be environmental health specialists or sanitarians who are registered under this chapter. The appointed members shall serve for terms of two (2) years and until their successors are appointed and qualify, except that when initial appointments are made under the provisions of this chapter, two (2) members' terms shall be for only one (1) year. Thereafter all appointments shall be for a period of two (2) years.

(2) The examining committee shall conduct, or cause to be conducted, examinations of applicants pursuant to minimum standards and qualifications established by the secretary. The examining committee shall act in an advisory capacity to the secretary in establishing such minimum standards and qualifications.

Section 563. KRS 224.46-820 is amended to read as follows:

(1) There is created the Kentucky Regional Integrated Waste Treatment and Disposal Facility Siting Board consisting of nine (9) permanent members and three (3) temporary members. All members shall be residents of the Commonwealth of Kentucky. The secretary of the Cabinet for Health ***and Family*** Services or his designated representative shall be a permanent member of the board.

(2) The other eight (8) permanent members of the board shall be appointed by the Governor. Except for initial appointments, board members shall be appointed for a term of four (4) years. Of the initial appointments, one (1) shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, two (2) for a term of three (3) years, and three (3) for a term of four (4) years. Each of the members appointed by the Governor shall hold office for the term for which he was appointed and until his successor shall have been appointed and taken office in his stead or until he shall resign or be removed in a manner provided by law.

(3) The permanent membership of the board shall be composed of members having the following qualifications:

  (a) Two (2) members having a demonstrated experience in hazardous waste management;

  (b) Two (2) members from the Kentucky General Assembly;

  (c) Two (2) members chosen from the science and engineering faculties of the institutions of higher education in Kentucky;

  (d) One (1) member having demonstrated experience in industrial development planning; and

  (e) One (1) member representative of the general public.

(4) Three (3) temporary members of the board shall be appointed each time that an application for a certificate of

environmental safety and public necessity is submitted. The temporary members of the board shall be appointed by the county judge/executive of the county in which a regional integrated waste treatment and disposal demonstration facility is proposed to be located and shall be bona fide residents of the county. The temporary members of the board shall be appointed within thirty (30) days of the declaration of intent required by KRS 224.46-825 and 224.46-830; however, failure of the appropriate appointing authority to appoint temporary members of the board within thirty (30) days shall not preclude the board from acting upon applications for certificates of environmental safety and public necessity. Temporary members of the board shall have all the rights and privileges of membership on the board while acting upon those applications for certificates for which they were appointed, but shall not participate in the transaction of other business by the board.

(5) The permanent members of the board shall choose from among their membership a chairperson of the board.

(6) Members of the board shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(7) Staff services for the board shall be provided to the extent practicable by personnel of the cabinet; however, the board may request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency and arrange by contract for governmental and nongovernmental assistance as necessary in the performance of its duties, including expenses for administrative start-up costs incidental to the organization of the board. Services provided by state and municipal agencies shall be reimbursed at cost.

(8) The cabinet shall not provide legal representation to the board. The board may enter into personal service contracts pursuant to KRS Chapter 45A to obtain legal counsel for representation on appeals to Franklin Circuit Court and in other legal matters.

(9) The board shall meet as necessary for the performance of its duties, upon the call of the chairperson or upon the request of seven (7) members of the board by delivery of written notice of the meeting to each member of the board at least five (5) days prior to the meeting.

(10) Seven (7) members of the board shall constitute a quorum for the transaction of business of the board and all actions by the board shall require the affirmative vote of seven (7) members of the board.

Section 564. KRS 224.71-110 is amended to read as follows:

(1) The Agriculture Water Quality Authority is created and administratively attached to the cabinet. The authority shall be a multidiscipline peer group that shall evaluate, develop, and improve best-management practices in conservation plans, compliance plans, and forest stewardship management plans; establish statewide and regional agriculture water quality plans; and otherwise promote soil and water conservation activities that protect waters of the Commonwealth from the adverse impacts of agriculture operations within the Commonwealth. The cabinet shall provide staff to the authority.

(2) Within six (6) months of July 15, 1994, the Soil and Water Conservation Commission shall submit to the Governor for appointment to the Agriculture Water Quality Authority a list of three (3) persons recommended by each of the following state agencies and organizations:

(a) Kentucky Association of Conservation Districts;
(b) Kentucky Department of Agriculture;
(c) University of Kentucky College of Agriculture Cooperative Extension Service;
(d) Kentucky Farm Bureau Federation, Inc.;
(e) Division of Conservation, Natural Resources and Environmental Protection Cabinet;
(f) Division of Forestry, Natural Resources and Environmental Protection Cabinet;
(g) Kentucky Geological Survey; and
(h) Environmental organizations.

The membership of the Agriculture Water Quality Authority appointed by the Governor shall consist of one (1) representative from each of the groups identified in paragraphs (a) to (h) of this subsection and three (3) members at large from agriculture operations. The Soil and Water Conservation Commission shall solicit nominations from Kentucky agriculture operations organizations and submit those names to the Governor for selection of the three (3) members at large from agriculture operations. The Governor shall select four (4) members to serve two (2) year initial terms, four (4) members to serve three (3) year initial terms, and three (3) members to serve four (4) year initial terms. All succeeding terms shall be four (4) year terms. A representative from the United States Soil Conservation Service and a representative from the United States Agriculture Stabilization and Conservation Service may also be appointed by the Governor to serve on the authority. One (1) representative each from the Division of Water, Natural Resources and Environmental Protection Cabinet and the Division of ***Public Health Protection and***[~~Environmental Health and Community~~] Safety, Cabinet for Health ***and Family*** Services shall serve as ex officio members.

(3) It shall be the responsibility of the Agriculture Water Quality Authority to establish, at a minimum, the following four (4) committees for agriculture operations, with membership outside the Agriculture Water Quality Authority:

(a) Livestock, including but not limited to, beef, swine, dairy, poultry, and equine;
(b) Crops, including but not limited to, tobacco, corn, soybeans, small grains, fruits and vegetables, pasture and timber;

(c) Pesticides, fertilizers, and other agricultural chemicals; and

(d) Farmstead issues.

(4) The Agriculture Water Quality Authority shall have the following responsibilities:

(a) Review water quality data as available;

(b) Review university research on water quality and alternative best-management practices research;

(c) Evaluate the adoption and effectiveness of best-management practices, and modify best-management practice design standards to improve water quality protection practices;

(d) Develop by July 1, 1996, statewide agriculture water quality plans to address identifiable water pollution problems from agriculture operations, and continue to evaluate and modify the agriculture water quality plans, as necessary to prevent water pollution from agriculture operations;

(e) Assist with the review of state-funded and other water quality monitoring data and with the establishment of agriculture water priority protection regions;

(f) Provide technical assistance to persons engaged in agriculture operations and to the Soil and Water Conservation Commission in its efforts to coordinate water quality protection as related to agriculture operations;

(g) Work with the United States Soil Conservation Service, United States Agriculture Stabilization and Conservation Service, and conservation districts to disseminate to agriculture operations the best-management practices, conservation plans, compliance plans, forest stewardship management plans, and agriculture water quality plans which address the protection of groundwater and surface water;

(h) Provide the Governor and the Legislative Research Commission with biennial reports of the progress of the Agriculture Water Quality Authority program; and

(i) Establish procedures for modifications to be incorporated into statewide or regional agriculture water quality plans.

(5) The cabinet's Division of Water shall approve or disapprove any statewide and regional water quality plan within thirty (30) days of receiving the plan from the Agriculture Water Quality Authority. All provisions of a statewide or regional water quality plan not found deficient shall be approved. If the Division of Water finds any provision of the statewide or regional agriculture water quality plan deficient, the Division of Water shall give written notice to the authority of those provisions found to be deficient. Within the thirty (30) days following the notice of deficiency, the authority shall deliver to the Division of Water a written response setting forth proposed solutions to the deficiencies. Any deficiencies which remain unresolved shall be resolved in a manner agreed to jointly by the Division of Water and the authority within sixty (60) days unless the Division of Water and authority jointly agree to an extension or alternate dispute resolution. The Division of Water shall approve or disapprove all modifications to the statewide and regional plans as set forth at KRS 224.71-120(8).

Section 565. KRS 237.110 is amended to read as follows:

(1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court.

(2) The Department of State Police, following the record check required by subsection (1) of this section, shall issue a license if the applicant:

(a) 1. Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application; or

2. Is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky, and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application;

(b) Is twenty-one (21) years of age or older;

(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(d)(1) or (g) or KRS 527.040;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Demonstrates competence with a firearm by completion of a firearms safety or training course or class offered or approved by the Department of Criminal Justice Training.

Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement;

(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and

(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.

(3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.

(4) The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for ***Health and Family Services***[~~Families and Children~~] that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.

(5) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars ($20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

(a) The name, address, place and date of birth, gender, and Social Security number of the applicant;

(b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

(d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

(e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

(a) A completed application as described in subsection (5) of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation; and

(c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.

(7) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (6) of this section, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(8) The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the District Court. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(10) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.

(11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(12) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old

license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (5), (6), and (7) of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(14) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(15) All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.

(16) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(17) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

(b) The Department of State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(18) By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

(19) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:

(a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(c) Each concealed deadly weapon instructor or instructor trainer shall notify the Department of Criminal Justice Training not less than fourteen (14) days prior to the beginning of concealed deadly weapon applicant or concealed deadly weapon instructor training of the time, date, and location at which the class will be conducted. The department, upon the request of a firearms instructor trainer or certified firearms instructor, may permit a class to begin on less than fourteen (14) days' notice. The notice need not contain the names of the students. The notice may be made by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the application. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled but did not successfully complete the class, and which students enrolled and successfully completed the class which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;

(f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;

(g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than thirty (30) days after its receipt. Failure to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the

Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall be grounds for the Department of State Police to revoke the person's concealed deadly weapon license, following a hearing conducted pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

(h) The department shall randomly inspect certified firearms instructor classes being conducted by firearms instructor trainers and shall randomly inspect applicant classes being conducted by firearms instructor trainers or certified firearms instructors to ascertain if the class is being conducted in conformity to the provisions of applicable statutes and administrative regulations and that the paperwork in the class matches the paperwork ultimately submitted by the firearms instructor trainer or certified firearms instructor for that same class. The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:

1. The number of random inspections;
2. The results of those inspections;
3. The number of deficiencies noted;
4. The nature of the deficiencies noted;
5. If a deficiency was noted, the categories of action taken by the department to either correct the deficiency or discipline the instructor, or a combination thereof;
6. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
7. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
8. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;

(i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of State Police as a matter of law;

(j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and

(k) The provisions of this section shall be deemed to be retroactive to March 1, 2002, and the following shall be in effect:

1. Action to eliminate the firearms instructor trainer program as done by emergency administrative regulation is rescinded, the program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
2. The Kentucky State Police may revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted pursuant to KRS Chapter 13B. Any action taken by the Kentucky State Police, other than revoking a permit for voluntary admission of nonreceipt of training or receipt of insufficient training to revoke a concealed deadly weapon license of a person suspected of nonreceipt of training or receipt of insufficient training, between March 1, 2002, and July 15, 2002, is suspended until the conduct of a KRS Chapter 13B hearing after July 15, 2002; and
3. Any person who has received a training affidavit requiring the person to verify training conducted during a firearms instructor course or applicant course from the Department of Criminal Justice Training between March 1, 2002, and July 15, 2002, shall have the time to respond to the training affidavit extended to August 1, 2002. The department shall notify each person who has not, as of July 15, 2002, returned his or her training affidavit of the extension of time to file the affidavit.

Section 566. KRS 243.895 is amended to read as follows:

(1) All licensed retail vendors of alcoholic beverages shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health ***and Family*** Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(2) A person who violates subsection (1) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50).

Section 567. KRS 248.664 is amended to read as follows:

Before distribution of the funds, a list of individuals or entities that are awarded tobacco settlement moneys from the tobacco settlement agreement fund under KRS 248.654, or related state or federal legislation, shall be forwarded by the cabinet, agency, corporation, authority, or other entity responsible for the distribution of the moneys to all designees of the Cabinet for ***Health and Family Services***[~~Families and Children~~] for the administration of the child support program.

Section 568. KRS 258.005 is amended to read as follows:

As used in KRS 258.005 to 258.087, unless the context requires otherwise:

(1) "Dog" means any canine three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine;

(2) "Owner" means any person owning, keeping, or harboring a dog, cat, or ferret in Kentucky;

(3) "Veterinarian" means a licensed practitioner of veterinary medicine;

(4) "Qualified person" means a person granted a permit by the secretary for health ***and family*** services to vaccinate his own dog against rabies;

(5) "Vaccination" means the administration by a veterinarian or other qualified person of rabies vaccine approved by and administered in accordance with administrative regulations promulgated by the secretary for health ***and family*** services;

(6) "Cat " means any feline three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine;

(7) "Animal control officer" means an individual who is employed or appointed by, or has contracted with:

(a) A city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, and local animal control ordinances; or

(b) An entity that has contracted with a city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, and local animal control ordinances;

(8) "Ferret" means any musteline three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine; and

(9) "Quarantine" means the confinement of an animal for observation of clinical signs of illness indicating rabies infection, and the prevention of escape or contact with any person or other animal.

Section 569. KRS 258.015 is amended to read as follows:

(1) Every owner shall have his dog, cat, or ferret initially vaccinated against rabies by the age of four (4) months and revaccinated at the expiration of the immunization period as certified by the veterinarian. The veterinarian who vaccinates a dog, cat, or ferret shall issue to the owner a vaccination certificate on a form approved by the Cabinet for Health ***and Family*** Services. The vaccination certificate shall be prepared and issued in duplicate, one (1) copy to be retained by the issuing veterinarian and one (1) copy to be given to the owner of the dog, cat, or ferret vaccinated. Each certificate shall bear the name and address of the veterinarian who issued it. The veterinarian shall also furnish each dog owner with a rabies tag bearing a serial number corresponding to the vaccination certificate with the year of immunization. The tag shall be affixed to a collar or harness furnished by the owner and shall be worn by the dog for which the tag was issued. No one except the owner or his duly authorized agent shall remove the tag.

(2) Every qualified person who vaccinates his own dog shall comply with the vaccination certificate and tag requirement provisions of subsection (1) of this section.

(3) Every owner of a cat or ferret shall show proof of a valid rabies vaccination upon request of an animal control officer or peace officer.

(4) Any person with feral cats on his premises shall make a reasonable effort to capture or vaccinate the cats.

Section 570. KRS 258.035 is amended to read as follows:

Any owner who has had his dog, cat, or ferret vaccinated against rabies in another state by the proper authority shall not be required to have the dog, cat, or ferret revaccinated when brought into this state provided the requirements of the state under which the vaccination was made were of a standard not lower than those required in this state, and provided further that the dog wears a tag affixed to its collar or harness bearing the year of the vaccination and the owner of the cat or ferret shows proof of a valid rabies vaccination. One (1) year after the date of the vaccination, the dog, cat, or ferret shall be revaccinated unless provided otherwise by administrative regulations promulgated by the secretary for health ***and family*** services. The secretary for health ***and family*** services may promulgate administrative regulations governing the matter of reciprocity with other states.

Section 571. KRS 258.055 is amended to read as follows:

If a local board of health has reason to believe or has been notified by the Cabinet for Health ***and Family*** Services that there is danger that rabies may spread within the county, the board shall publish a notice requiring owners of specified animals in the affected area of the county to confine the animals for any periods that may be necessary to prevent the spread of rabies If it is deemed advisable in the interest of public health, the local board of health shall order all specified animals in the affected area to be vaccinated against rabies, except animals that have been vaccinated within the past six (6) months under the provisions of KRS

258.005 to 258.087. If the local board fails or neglects to order a vaccination, the Cabinet for Health ***and Family*** Services shall do so. The Cabinet for Health ***and Family*** Services may aid the local health department in the execution of any emergency vaccinations.

Section 572. KRS 258.075 is amended to read as follows:

The secretary for health ***and family*** services may administer the provisions of KRS 258.005 to 258.087 through the local health departments and may promulgate any administrative regulations and employ such personnel as are necessary to effectuate the purposes of KRS 258.005 to 258.087.

Section 573. KRS 258.085 is amended to read as follows:

(1) (a) A health officer or his agent shall have the authority to quarantine for a period not to exceed one hundred eighty (180) days any animal bitten by another animal known or suspected to have rabies, and to quarantine for a period not to exceed ten (10) days any dog, cat, or ferret which has bitten a human being or which exhibits symptoms of rabies.(b) In lieu of the quarantines provided in paragraph (a) of this subsection, a health officer or his agent may order an animal to be destroyed and tested for rabies.

(c) If a wild or exotic animal bites a human being or exhibits symptoms of rabies, that animal shall be destroyed and tested for rabies.

(2) If an animal dies with rabies, is suspected of having died with rabies, or is destroyed because of having been suspected of being rabid, the owner, if known, whether the animal had been previously quarantined or not, shall send the head of the animal to a laboratory approved by the secretary for health ***and family*** services to be tested for rabies.

(3) (a) The owner of any animal quarantined or tested under this section shall be liable for any expenses incurred as a result of the quarantine or testing.

(b) Any owner who destroys or disposes of an animal that has bitten a human being shall be liable for any rabies postexposure treatment if the animal is destroyed or disposed of in a manner that does not allow for rabies testing or quarantine.

Section 574. KRS 258.365 is amended to read as follows:

Nothing in this chapter shall be construed to prohibit or limit the right of any governing body to pass or enforce any ordinance with respect to the regulation of dogs or other animals, the provisions of which are not inconsistent with the provisions of this chapter. Nothing in this chapter shall be construed to repeal any of the provisions of the fish and game laws of the Commonwealth of Kentucky now in effect, nor any laws relating to the powers and duties of the secretary for health ***and family*** services, or any health officer relating to rabid animals or animals affected with any disease, or to prohibit the destroying of any animal in accordance with the provisions of any quarantine regulations, made in accordance with the provisions of any local or state health law.

Section 575. KRS 260.775 is amended to read as follows:

As used in KRS 260.775 to 260.845, unless the context requires otherwise:

(1) "Board" means the Kentucky Milk Handlers Advisory Board;

(2) "Buy" means the receiving of milk from producers or their agents and paying for the milk on the basis of volume and test, or weight and test;

(3) "Director" means the director of the Agricultural Experiment Station, College of Agriculture, University of Kentucky, or his or her designee;

(4) "Handler" means any person who receives, bargains, brokers, or issues payment for or purchases milk from Kentucky permitted producers or the permitted producers' agents;

(5) "Laboratory" means the location or work area where milk analysis or testing takes place;

(6) "Laboratory license" means the license issued to a milk laboratory;

(7) "License to handle" means the license issued to a handler of milk;

(8) "License to sample and weigh" means the license issued to a milk sampler-weigher;

(9) "License to test" means the license issued to a milk tester;

(10) "Location" means each separate business place where permitted producers' milk or milk samples are received, stored, or processed, or where records pertaining to permitted producers' milk tests or payments are kept;

(11) "Milk" means the lacteal secretion and all of its components, obtained by the milking of animals;

(12) "Milk importer" means any person who delivers milk from producers outside the Commonwealth of Kentucky to processors in this state;

(13) "Milk processor" means any location where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution by a milk handler;

(14) "Milk receiving station" means any location where producers' raw farm milk is collected, handled, or stored by a milk handler;

(15) "Permitted producer" means any producer issued a permit by the Kentucky Cabinet for Health ***and Family*** Services to offer milk for sale;

(16) "Person" shall mean any individual, bargaining agent, broker, processor, milk plant operator, partnership, cooperation, concern, corporation, organization, company, firm, trustee, association, or agent thereof;

(17) "Producer" means any person keeping animals for the production of milk;

(18) "Record" means any information relating to milk weights, tests, transfers, purchases, receipts, and sales;

(19) "Sampler-weigher" means any person who samples, weighs, or measures milk from producers and submits these samples, weights, or measurements for use in determining the price paid for milk;

(20) "Test" means to analyze a milk sample to determine the amount of a milk component or to determine milk quality;

(21) "Tester" means any person who tests milk from permitted producers to determine its components or quality, or submits these tests for use in determining the price paid for milk;

(22) "Transfer station" means any location where farm bulk milk is transferred directly from one (1) tank to another and producers' milk samples are collected, handled, stored, and transported to a laboratory for analysis; and

(23) "Transfer station license" means the license issued to operate a transfer station.

Section 576. KRS 260.840 is amended to read as follows:

(1) The Kentucky Milk Handlers Advisory Board shall consist of:

(a) The coordinator of the dairy section of the Animal Science Department at the University of Kentucky, College of Agriculture;

(b) The chair of the dairy committee of the Kentucky Farm Bureau Federation;

(c) The branch manager of the Milk Safety Branch of the Cabinet for Health ***and Family*** Services;

(d) Three (3) permitted producers or permitted producer representatives;

(e) Two (2) processors or processor representatives;

(f) One (1) sampler-weigher or sampler-weigher representative; and

(g) One (1) tester or tester representative.

The coordinator of the dairy section of the Animal Science Department at the University of Kentucky, College of Agriculture shall act as chair of the board.

(2) The director, or his designated representative, shall be an ex officio member and secretary to the board.

(3) (a) Each permitted producer shall be appointed by the director from a list of two (2) persons nominated by the dairy committee of the Kentucky Farm Bureau Federation. If a permitted producer becomes chair of the dairy committee of the Kentucky Farm Bureau Federation during his or her term, the dairy committee shall appoint an alternate to serve the remainder of the term of the permitted producer.

(b) Each processor shall be appointed by the director from a list of two (2) persons nominated by the executive committee of the Dairy Products Association of Kentucky. If a processor becomes president of the Dairy Products Association of Kentucky during his or her term, the executive committee shall appoint an alternate to serve the remainder of the term of the processor.

(c) The sampler-weigher and tester shall be at-large appointees and shall be appointed by the director.

(4) Appointments to the board shall be for a term of three (3) years, or until their successors are appointed, except that the terms of office of the members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, and three (3) members shall be appointed for three (3) years. The respective terms of the first members shall be designated by the director at the time of their appointment. No appointed board member shall serve more than two (2) consecutive terms.

(5) Board members not already employed by the state shall be compensated at the rate of one hundred dollars ($100) per day for board service and be reimbursed for any actual expense incurred while performing board duties.

Section 577. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as identified in Subtitle 32) except as stated in Subtitle 32.

(3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as stated in KRS Chapter 299.

(5) Insurance premium finance companies (as identified in Subtitle 30), except as stated in Subtitle 30.

(6) Qualified organizations which issue charitable gift annuities within the Commonwealth of Kentucky. For the purposes of this subsection:

(a) A "qualified organization" means one which is:

1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, if it files a copy of federal form 990 with the Division of Consumer Protection in the Office of the Attorney General; or

2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a religious organization; or

3. Exempt as a publicly owned or nonprofit, privately endowed educational institution approved or licensed by the State Board of Education, the Southern Association of Colleges and Schools, or an equivalent public authority of the jurisdiction where the institution is located; and

(b) A "charitable gift annuity" means a giving plan or method by which a gift of cash or other property is made to a qualified organization in exchange for its agreement to pay an annuity.

(7) A religious publication (as identified in this subsection), or its subscribers, that limit their operations to those activities permitted by this subsection, and:

(a) Is a nonprofit religious organization;

(b) Is limited to subscribers who are members of the same denomination or religion;

(c) Acts as an organizational clearinghouse for information between subscribers who have financial, physical, or medical needs and subscribers who choose to assist with those needs, matching subscribers with the present ability to pay with subscribers with a present financial or medical need;

(d) Pays for the subscribers' financial or medical needs by payments directly from one (1) subscriber to another;

(e) Suggests amounts to give that are voluntary among the subscribers, with no assumption of risk or promise to pay either among the subscribers or between the subscribers and the publication; and

(f) Provides the following verbatim written disclaimer as a separate cover sheet for all documents distributed by or on behalf of the exempt entity, including all applications, guidelines, promotional or informational materials, and all periodic publications:

"This publication is not issued by an insurance company nor is it offered through an insurance company. This publication does not guarantee or promise that your medical bills will be published or assigned to others for payment.

Whether anyone chooses to pay your medical bills will be totally voluntary. This publication should never be considered as a substitute for an insurance policy.

Whether you receive any payments for medical expenses, and whether or not this publication continues to operate, you will always remain liable for any unpaid bills."

(8) A public or private ambulance service licensed and regulated by the Cabinet for Health ***and Family*** Services to the extent that it solicits membership subscriptions, accepts membership applications, charges membership fees, and furnishes prepaid or discounted ambulance services to subscription members and designated members of their households.

Section 578. KRS 304.12-013 is amended to read as follows:

(1) The purpose of this section is to prohibit unfair or deceptive practices in the transaction of life and health insurance with respect to the human immunodeficiency virus infection and related matters. This section applies to all life and health insurance contracts which are delivered or issued for delivery in Kentucky on or after July 13, 1990.

(2) This section shall not prohibit an insurer from contesting the validity of an insurance contract or whether a claim is covered under an insurance contract to the extent allowed by law.

(3) As used in this section:

(a) "Human immunodeficiency virus" (HIV) means the causative agent of acquired immunodeficiency syndrome (AIDS) or any other type of immunosuppression caused by the human immunodeficiency virus;

(b) "Insurance contract" means a contract issued by an insurer as defined in this section; and

(c) "Insurer" means an insurer, a nonprofit hospital, medical-surgical, dental, and health service corporation, a health maintenance organization, or a prepaid dental plan organization.

(4) (a) In the underwriting of an insurance contract regarding human immunodeficiency virus infection and health conditions derived from such infection, the insurer shall utilize medical tests which are reliable predictors of risk. Only a test which is recommended by the Centers for Disease Control or by the Food and Drug Administration is deemed to be reliable for the purposes of this section. If a specific Centers for Disease Control or Food and Drug Administration-recommended test indicates the existence or possible existence of human immunodeficiency virus infection or a health condition related to the human immunodeficiency virus infection, before relying on a single test to deny issuance of an insurance contract, limit coverage under an insurance contract, or to establish the premium for an insurance contract, the insurer shall follow the applicable Centers for Disease Control or Food and Drug Administration-recommended test protocol and shall utilize any applicable Centers for Disease Control or Food and Drug Administration-recommended follow-up tests or series of tests to confirm the indication.

(b) Prior to testing, the insurer shall disclose in writing its intent to test the applicant for the human immunodeficiency virus infection or for a specific health condition derived therefrom and shall obtain the applicant's written informed consent to administer the test. Written informed consent shall include a fair explanation of the test, including its purpose, potential uses and limitations, the meaning of its results, and the right to confidential treatment of information. Use of a form prescribed by the department shall raise a conclusive presumption of informed consent.

(c) An applicant shall be notified of a positive test result by a physician designated by the applicant, or, in the absence of such designation, by the Cabinet for Health ***and Family*** Services. The notification shall include:

1. Face-to-face post-test counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others;
2. The availability in the geographic area of any appropriate health-care services, including mental health care, and appropriate social and support services;
3. The benefits of locating and counseling any person by whom the infected person may have been exposed to human immunodeficiency virus and any person whom the infected person may have exposed to the virus; and
4. The availability, if any, of the services of public health authorities with respect to locating and counseling any person described in subparagraph 3. of this paragraph.

(d) A medical test for human immunodeficiency virus infection or for a health condition derived from the infection shall only be required or given to an applicant for an insurance contract on the basis of the applicant's health condition or health history, on the basis of the amount of insurance applied for, or if the test is required of all applicants.

(e) An insurer may ask whether an applicant for an insurance contract has been tested positive for human immunodeficiency virus infection or other health conditions derived from such infection. Insurers shall not inquire whether the applicant has been tested for or has received a negative result from a specific test for human immunodeficiency virus infection or for a health condition derived from such infection.

(f) Insurers shall maintain strict confidentiality of the results of tests for human immunodeficiency virus infection or a specific health condition derived from human immunodeficiency virus infection. Information regarding specific test results shall be disclosed only as required by law or pursuant to a written request or authorization by the applicant. Insurers may disclose results pursuant to a specific written request only to the following persons:

1. The applicant;
2. A licensed physician or other person designated by the applicant;
3. An insurance medical-information exchange under procedures that are used to assure confidentiality, such as the use of general codes that also cover results of tests for other diseases or conditions not related to human immunodeficiency virus infection;
4. For the preparation of statistical reports that do not disclose the identity of any particular applicant;
5. Reinsurers, contractually retained medical personnel, and insurer affiliates if these entities are involved solely in the underwriting process and under procedures that are designed to assure confidentiality;
6. To insurer personnel who have the responsibility to make underwriting decisions; and
7. To outside legal counsel who needs the information to represent the insurer effectively in regard to matters concerning the applicant.

(g) Insurers shall use for the processing of human immunodeficiency virus-related tests only those laboratories that are certified by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, which permit testing of specimens in interstate commerce, and which subject themselves to ongoing proficiency testing by the College of American Pathologists, the American Association of Bioanalysts, or an equivalent program approved by the Centers for Disease Control.

(5) (a) An insurance contract shall not exclude coverage for human immunodeficiency virus infection. An insurance contract shall not contain benefit provisions, terms, or conditions which apply to human immunodeficiency virus infection in a different manner than those which apply to any other health condition. Insurance contracts which violate this paragraph shall be disapproved by the commissioner pursuant to KRS 304.14-130(1)(a), 304.32-160, and 304.38-050.

(b) A health insurance contract shall not be canceled or nonrenewed solely because a person or persons covered by the contract has been diagnosed as having or has been treated for human immunodeficiency virus infection.

(c) Sexual orientation shall not be used in the underwriting process or in the determination of which applicants shall be tested for exposure to the human immunodeficiency virus infection. Neither the marital status, the living arrangements, the occupation, the gender, the beneficiary designation, nor the zip code or other territorial classification of an applicant's sexual orientation.

(d) This subsection does not prohibit the issuance of accident only or specified disease insurance contracts.

Section 579. KRS 304.17B-003 is amended to read as follows:

(1) There is hereby established the Kentucky Health Care Improvement Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all the powers, duties, and responsibilities conferred upon it by statute and necessary or convenient to carry out its functions. The authority shall be administered by a board of fifteen (15) members and is created to perform the public functions of administering programs financed by the funds appropriated to the authority in conformance with KRS 304.17B-001 to 304.17B-031 and any terms and conditions established by the General Assembly as a part of the act appropriating the funds. The members of the board shall consist of the following:

(a) The commissioner of the Department of Insurance, who shall serve as chair;

(b) The secretary of the Cabinet for Health ***and Family*** Services, who shall serve as vice chair;

(c) Two (2) nonvoting members serving ex officio from the House of Representatives, one (1) of whom shall be appointed by the Speaker of the House and one (1) appointed by the minority floor leader, and who shall serve a term of two (2) years;

(d) Two (2) nonvoting members serving ex officio from the Senate, one (1) of whom shall be appointed by the President of the Senate and one (1) appointed by the minority floor leader, and who shall serve a term of two (2) years;

(e) The deans of the University of Louisville School of Medicine and the University of Kentucky College of Medicine;

(f) The commissioner of the Department for Public Health;

(g) Two (2) representatives of Kentucky health care providers, who shall be appointed by the Governor; and

(h) Four (4) citizens at large of the Commonwealth, who shall be appointed by the Governor.

(2) The terms of office of the initial appointments of the citizen at-large members of the board shall expire one (1), two (2), three (3), and four (4) years respectively from the expiration date of the initial appointment. One (1) of the initial terms of the representatives of health care providers, at least one (1) of whom shall be male and at least one (1) of whom shall be female, shall be for two (2) years and one (1) shall be for four (4) years. All succeeding appointments shall be for four (4) years from the expiration date of the term of the initial appointment. Two (2) of the citizens at large shall be male and two (2) shall be female. Board members shall serve until their successors are appointed.

(3) In making private sector and citizen-at-large appointments to the board, the Governor shall assure broad geographical and ethnic representation as well as representation from consumers and the major sectors of Kentucky's health care and health insurance businesses. Private sector and citizen-at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(4) The authority shall establish priorities for programs and the expenditure of funds, establish procedures for accountability, and develop mechanisms to measure the success of programs that receive allocated funds in accordance with any criteria or instructions provided by the General Assembly. The authority shall be attached to the Department of Insurance for administrative purposes and shall establish advisory boards it deems appropriate, which shall consist of health insurance consumers, health care providers, and insurance company representatives, to assist with oversight of fund expenditures.

(5) Grants and funds obtained under KRS 304.17B-001 to 304.17B-031 shall be used for expenditures as follows:

(a) Seventy percent (70%) of all moneys in the fund shall be placed into the Kentucky Access fund for the purpose of funding Kentucky Access;

(b) Twenty percent (20%) of all moneys in the fund shall be spent on a collaborative partnership between the University of Louisville and the University of Kentucky dedicated to lung cancer research; and

(c) Ten percent (10%) of all moneys in the fund shall be used to discourage the use of harmful substances by minors.

(6) The authority shall assure that a public hearing is held on the expenditure of funds allocated under this section, except for funds allocated to the Kentucky Access fund. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The authority shall submit an annual report to the Governor and the General Assembly indicating how the funds were used and an evaluation of the program's effectiveness in health care and access to health insurance for Kentucky residents.

(7) Neither the authority nor its employees shall be liable for any obligations of any of the programs established under KRS 304.17B-001 to 304.17B-031. No member or employee of the authority shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under KRS 304.17B-001 to 304.17B-031, unless the act or omission constitutes willful or wanton misconduct. The authority may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

(8) The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 304.17B-001 to 304.17B-031, including, but not limited to, retaining the staff it deems necessary for the proper performance of its duties.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

Section 580. KRS 304.40-075 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by the Commonwealth, or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical care or dentistry without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" means those persons, agencies, clinics, or facilities providing primary care medicine and performing no invasive or surgical procedures, and those persons, agencies, clinics, or facilities providing services within the dentist's scope of practice under KRS Chapter 313;

(b) "Medical malpractice insurer" means every person or entity engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts to provide medical professional liability insurance, except an entity in the business of providing such medical professional liability insurance only to itself or its affiliated subsidiary, or parent corporation, or subsidiaries of its parent corporations; and

(c) "Medical professional liability insurance" means insurance to cover liability incurred as a result of the hands-on providing of medical professional services directly to patients by an insured in the treatment, diagnosis, or prevention of patient illness, disease, or injury.

(2) Insurers offering medical professional liability insurance in the Commonwealth shall make available, as a condition of doing business in the Commonwealth pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.

(3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund upon written application for payment of the premium by the health care provider wishing to offer charitable services.

(b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:

1. Name and address of the charitable health care provider;

2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;

3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;

4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed;

5. A copy of the registration filed with the Cabinet for Health ***and Family*** Services under KRS 216.941; and

6. A copy of the medical malpractice policy, declaration page, and any other documentation the commissioner may deem necessary to determine the proper amount of premiums and taxes to be reimbursed.

(c) Persons insured under this section shall be required to comply with the same risk management and loss prevention policies which the insurer imposes upon its other insureds.

(d) Any premium refund for medical professional liability insurance issued under subsection (2) of this section received for any reason by the charitable health care provider shall be promptly remitted to the department for transmittal to the general fund.

(4) This section shall only apply to charitable health care providers and persons volunteering to perform medical services for charitable health care providers who are not otherwise covered by any policy of medical professional liability insurance for the charitable health care services provided, and that meet the terms for eligibility established pursuant to this section.

(5) Coverage offered to charitable health care providers and persons volunteering at charitable health care providers shall be at least as broad as the coverage offered by the insurer to other noncharitable health care providers or facilities and to medical professionals working at noncharitable health care facilities.

(6) The Department of Insurance shall retrospectively review on an annual basis the premiums paid pursuant to this section as opposed to the expenses incurred by the insurers covering risks under this section to determine if the profits made for those risks were consistent with reasonable loss ratio guidelines. If the determination is made that the profits were not consistent with reasonable loss ratio guidelines, the Department of Insurance shall determine the amount of the premiums to be refunded to the Commonwealth.

(7) The Cabinet for Health ***and Family*** Services shall make available to the Department of Insurance information on its registration of charitable health care providers for the purpose of obtaining medical malpractice insurance.

(8) The Department of Insurance shall not provide medical malpractice insurance as specified in subsection (3)(a) of this

section to a charitable health care provider who has not registered with the Cabinet for Health ***and Family*** Services under KRS 216.941.

Section 581. KRS 311.241 is amended to read as follows:

(1) Each hospital licensed under the provisions of KRS Chapter 216B shall, as a condition of licensure, establish an organ-procurement-for-transplant protocol, in consultation with a federally certified organ procurement organization, which encourages organ donation and identifies potential organ donors.

(2) When an individual has died or has been identified by a medical hospital staff member as having a terminal condition and is further identified as a potential organ donor and meets the criteria set forth in the hospital's organ-procurement-for-transplant protocol, the hospital administrator or his official designee shall then notify the federally certified organ procurement organization of the potential availability of the organ. The notification of the federally certified organ procurement organization as to the identity of a potential organ donor shall be documented in such patient's medical record. Any identified contraindication to organ donation shall be documented in the patient's medical record.

(3) Any hospital licensed under the provisions of KRS Chapter 216B which performs any transplantable organ transplant shall report to the Cabinet for Health ***and Family*** Services, Office of the Inspector General, any information relating to the possible sale, purchase, or brokering of a transplantable organ.

Section 582. KRS 311.250 is amended to read as follows:

No itinerant medical company of two (2) or more persons shall travel as a troupe or company as vendors of any drug, nostrum, or instrument intended for the treatment of any disease or injury, or by any writing or printing profess to the public to treat disease or deformity by the use of any drug, nostrum, or instrument without first obtaining a license from the secretary for health ***and family*** services. The fee for such license shall be one hundred dollars ($100) per month. The secretary shall issue licenses to reputable and worthy applicants upon payment of the fee each month, but may for sufficient cause refuse to issue such license.

Section 583. KRS 311.282 is amended to read as follows:

(1) A physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally liable for the disclosure of otherwise confidential information under the following circumstances:

(a) If a patient of the physician has tested positive for human immunodeficiency virus discloses to the physician the identity of a spouse or sexual partner with whom the patient has cohabitated for more than one (1) year; and

(b) The physician recommends the patient notify the spouse or sexual partner of the positive test and refrain from engaging in sexual activity in a manner likely to transmit the virus and the patient refuses;

(c) If, pursuant to a perceived civil duty or the ethical guidelines of the profession, the physician reasonably and in good faith advises the spouse of the patient or sexual partner with whom the patient has cohabitated for more than one (1) year of the positive test and facts concerning the transmission of the virus; and

(d) The physician reports information about HIV status to the Cabinet for Health ***and Family*** Services pursuant to administrative regulations promulgated by the cabinet.

(2) Notwithstanding the foregoing, a physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally liable for failure to disclose information relating to a positive test result for human immunodeficiency virus of a patient to a spouse.

Section 584. KRS 311.378 is amended to read as follows:

(1) All physicians licensed pursuant to this chapter who maintain a private office shall post in a prominent place in the patient waiting room a printed sign supplied by the Cabinet for Health ***and Family*** Services that is at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high and with gender-neutral language, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(2) Any person who violates the provisions of subsection (1) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50).

Section 585. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verifiable information in the application to the executive director to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the domestic administration of family remedies, the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter, the use of automatic external defibrillators in accordance with the provisions of KRS 311.665 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by paramedics licensed under KRS Chapter 311A, first responders, or emergency medical technicians certified under Chapter 311A, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health ***and Family*** Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

(17) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education;

(18) "Order" means a direction of the board or its panels made or entered in writing that determines some point or directs some step in the proceeding and is not included in the final order;

(19) "Agreed order" means a written document that includes but is not limited to stipulations of fact or stipulated conclusions of law that finally resolves a grievance, a complaint, or a show cause order issued informally without expectation of further formal proceedings in accordance with KRS 311.591(6);

(20) "Final order" means an order issued by the hearing panel that imposes one (1) or more disciplinary sanctions authorized by this chapter;

(21) "Letter of agreement" means a written document that informally resolves a grievance, a complaint, or a show cause order and is confidential in accordance with KRS 311.619;

(22) "Letter of concern" means an advisory letter to notify a physician that, although there is insufficient evidence to support disciplinary action, the board believes the physician should modify or eliminate certain practices and that the continuation of those practices may result in action against the physician's license;

(23) "Motion to revoke probation" means a pleading filed by the board alleging that the licensee has violated a term or condition of probation and that fixes a date and time for a revocation hearing;

(24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter 13B to determine whether the licensee has violated a term or condition of probation;

(25) "Chronic or persistent alcoholic" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic consumption of alcoholic beverages resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of alcoholic beverages;

(26) "Addicted to a controlled substance" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic use of any narcotic drug or controlled substance resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of any narcotic drug or controlled substance;

(27) "Provisional permit" means a temporary permit issued to a licensee engaged in the active practice of medicine within this

Commonwealth who has admitted to violating any provision of KRS 311.595 that permits the licensee to continue the practice of medicine until the board issues a final order on the registration or reregistration of the licensee;

(28) "Fellowship training license" means a license to practice medicine or osteopathy in a fellowship training program as specified by the license; and

(29) "Special faculty license" means a license to practice medicine that is limited to instruction as part of an accredited medical school program or osteopathic school program and any affiliated institution for which the medical school or osteopathic school has assumed direct responsibility.

Section 586. KRS 311.623 is amended to read as follows:

(1) An adult with decisional capacity may make a written living will directive that does any or all of the following:

- (a) Directs the withholding or withdrawal of life-prolonging treatment; or
- (b) Directs the withholding or withdrawal of artificially provided nutrition or hydration; or
- (c) Designates one (1) or more adults as a surrogate or successor surrogate to make health care decisions on behalf of the grantor. During any period in which two (2) or more surrogates are serving, all decisions shall be by unanimous consent of all the acting surrogates unless the advance directive provides otherwise; or
- (d) Directs the giving of all or any part of the adult's body upon death for any purpose specified in KRS 311.185.

(2) Except as provided in KRS 311.633, a living will directive made pursuant to this section shall be honored by a grantor's family, regular family physician or attending physician, and any health care facility of or in which the grantor is a patient.

(3) For purposes of KRS 311.621 to 311.643, notification to any emergency medical responder as defined by KRS Chapter 211 or any paramedic as defined by KRS Chapter 311, of a person's authentic wish not to be resuscitated shall be recognized only if on a standard form or identification approved by the Kentucky Board of Medical Licensure, in consultation with the Cabinet for Health ***and Family*** Services.

Section 587. KRS 311.720 is amended to read as follows:

As used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context otherwise requires:

(1) "Abortion" shall mean the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with intent to cause fetal death;

(2) "Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216;

(3) "Consent" as used in KRS 311.710 to 311.820 with reference to those who must give their consent shall mean an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for health ***and family*** services;

(4) "Cabinet" shall mean the Cabinet for Health ***and Family*** Services of the Commonwealth of Kentucky;

(5) "Fetus" shall mean a human being from fertilization until birth;

(6) "Human being" shall mean any member of the species homo sapiens from fertilization until death;

(7) "Partial-birth abortion" shall mean an abortion in which the physician performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery;

(8) "Vaginally delivers a living fetus before killing the fetus" shall mean deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus;

(9) "Physician" shall mean any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to the provisions of this chapter;

(10) "Viability" shall mean that stage of human development when the life of the unborn child may be continued by natural or life-supportive systems outside the womb of the mother;

(11) "Accepted medical procedures" shall mean procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients;

(12) "Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function;

(13) "Medical necessity" means a medical condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, so complicates the pregnancy that it necessitates the immediate performance or inducement of an abortion; and

(14) "Probable gestational age of the embryo or fetus" means the gestational age that, in the judgment of a physician, is, with reasonable probability, the gestational age of the embryo or fetus at the time that the abortion is planned to be performed.

Section 588. KRS 311.732 is amended to read as follows:

(1) For purposes of this section the following definitions shall apply:

  (a) "Minor" means any person under the age of eighteen (18);

  (b) "Emancipated minor" means any minor who is or has been married or has by court order or otherwise been freed from the care, custody, and control of her parents; and

  (c) "Abortion" means the use of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

(2) No person shall perform an abortion upon a minor unless:

  (a) The attending physician or his agent secured the informed written consent of the minor and one (1) parent or legal guardian;

  (b) The minor is emancipated and the attending physician or his agent has received the informed written consent of the minor; or

  (c) The minor elects to petition any Circuit or District Court of the Commonwealth pursuant to subsection (3) of this section and obtain an order pursuant to subsection (4) of this section granting consent to the abortion and the attending physician or his agent has received the informed written consent of the minor.

(3) Every minor shall have the right to petition any Circuit or District Court of the Commonwealth for an order granting the right to self-consent to an abortion pursuant to the following procedures:

  (a) The minor or her next friend may prepare and file a petition setting forth the request of the minor for an order of consent to an abortion;

  (b) The court shall insure that the minor prepares or her next friend is given assistance in preparing and filing the petition and shall insure that the minor's identity is kept anonymous;

  (c) The minor may participate in proceedings in the court on her own behalf or through her next friend and the court shall appoint a guardian ad litem for her. The court shall advise her that she has a right to court-appointed counsel and shall provide her with such counsel upon her request;

  (d) All proceedings under this section shall be anonymous and shall be given preference over other matters to insure that the court may reach a decision promptly, but in no case shall the court fail to rule within seventy-two (72) hours of the time of application, provided that the seventy-two (72) hour limitation may be extended at the request of the minor; and

  (e) The court shall hold a hearing on the merits of the petition before reaching a decision. The court shall hear evidence at the hearing relating to the emotional development, maturity, intellect, and understanding of the minor; the nature, possible consequences, and alternatives to the abortion; and any other evidence that the court may find useful in determining whether the minor should be granted majority rights for the purpose of consenting to the abortion or whether the abortion is in the best interest of the minor.

(4) The court shall enter a written order, making specific factual findings and legal conclusions supporting its decision as follows:

  (a) Granting the petition for an abortion if the court finds that the minor is mature and well informed enough to make the abortion decision on her own;

  (b) Granting consent to the abortion if the court finds that the performance of the abortion would be in the minor's best interest; or

  (c) Deny the petition, if the court finds that the minor is immature and that performance of the abortion would not be in the minor's best interest.

(5) Any minor shall have the right of anonymous and expedited appeal to the Court of Appeals, and that court shall give precedence over other pending matters.

(6) No fees shall be required of any minor who declares she has no sufficient funds to pursue the procedures provided by this section.

(7) The Supreme Court is respectfully requested to promulgate any rules and regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.

(8) The requirements of subsections (2), (3), and (4) of this section shall not apply when, in the best medical judgment of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion. A physician who does not comply with subsection (2), (3), or (4) of this section due to the utilization of this exception shall certify in writing the medical indications upon which his judgment was based.

(9) A report indicating the basis for any medical judgment that warrants failure to obtain consent pursuant to this section shall be filed with the Cabinet for Health ***and Family*** Services on a form supplied by the cabinet. This report shall be confidential.

(10) Failure to obtain consent pursuant to the requirements of this section is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this state shall not be construed to

preclude the award of exemplary damages in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common-law rights of parents.

Section 589. KRS 311.935 is amended to read as follows:

(1) No later than one (1) year after July 13, 1984, the McDowell Cancer Network, Inc., and the James Graham Brown Cancer Center shall jointly develop and submit to the Cabinet for Health ***and Family*** Services and may periodically update a standardized written summary, in layman's language and in language understood by the patient, of the advantages, disadvantages, risks, and descriptions of all medically efficacious and viable alternatives for the treatment of breast cancer.

(2) The Cabinet for Health ***and Family*** Services, within ninety (90) days of receipt of the summary, shall print and make available to all licensed physicians in the Commonwealth sufficient copies of the standardized written summary for distribution by such physicians to their patients.

(3) Upon receipt of the summary, any physician licensed under the laws of the Commonwealth who treats a patient for any form of breast cancer shall provide the patient with a standardized written summary, as provided under this section, informing the patient of medically efficacious and viable alternative methods of treatment for breast cancer which may include surgical, radiological, or chemotherapeutic treatment or combinations thereof.

Section 590. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health ***and Family*** Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.

(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(21) Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(22) Any person who violates KRS 311.914 shall be guilty of a violation.

(23) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(24) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(25) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(26) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(27) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(28) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(29) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

Section 591. KRS 311.991 is amended to read as follows:

Any person who manufactures, distributes, sells, or prescribes amygdalin (laetrile) in violation of the standards established by the secretary of the Cabinet for Health ***and Family*** Services shall be punished by a fine of not less than five hundred dollars ($500) and not more than two thousand dollars ($2,000), or by imprisonment in the county jail for a period not to exceed six (6) months, or both. Each day of violation shall constitute a separate offense.

Section 592. KRS 311A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Ambulance" means a vehicle which has been inspected and approved by the board, including a helicopter or fixed-wing aircraft, except vehicles or aircraft operated by the United States government, that are specially designed, constructed, or have been modified or equipped with the intent of using the same, for the purpose of transporting any individual who is sick, injured, or otherwise incapacitated who may require immediate stabilization or continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being;

(2) "Ambulance provider" means any individual or private or public organization, except the United States government, who is licensed by the board to provide medical transportation services at either basic life support level or advanced life support level and who may have a vehicle or vehicles, including ground vehicles, helicopters, or fixed-wing aircraft to provide such transportation. An ambulance provider may be licensed as an air ambulance provider, as a Class I ground ambulance provider, as a Class II ground ambulance provider, or as a Class III ground ambulance provider;

(3) "Board" means the Kentucky Board of Emergency Medical Services;

(4) "Emergency medical facility" means a hospital or any other institution licensed by the Cabinet for Health ***and Family***

Services that furnishes emergency medical services;

(5) "Emergency medical services" means the services utilized in providing care for the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury;

(6) "Emergency Medical Services for Children Program" or "EMSC Program" means the program established under this chapter;

(7) "Emergency medical services personnel" means persons, certified or licensed, and trained to provide emergency medical services, and an authorized emergency medical services medical director, whether on a paid or volunteer basis;

(8) "Emergency medical services system" means a coordinated system of health-care delivery that responds to the needs of acutely sick and injured adults and children, and includes community education and prevention programs, centralized access and emergency medical dispatch, communications networks, trained emergency medical services personnel, medical first response, ground and air ambulance services, trauma care systems, mass casualty management, medical direction, and quality control and system evaluation procedures;

(9) "Emergency medical services training or educational institution" means any person or organization which provides emergency medical services training or education or in-service training, other than a licensed ambulance service which provides training, or in-service training in-house for its own employees or volunteers;

(10) "Emergency medical technician" or "EMT" means a person certified under this chapter as an EMT-basic, EMT-basic instructor, or EMT-instructor trainer;

(11) "First responder" means a person certified under this chapter as a first responder or first responder instructor;

(12) "Emergency medical services medical director" means a physician licensed in Kentucky who is employed by, under contract to, or has volunteered to provide supervision for a paramedic or an ambulance service, or both;

(13) "Paramedic" means a person who is involved in the delivery of medical services and is licensed under this chapter;

(14) "Paramedic course coordinator" means a person certified under this chapter to coordinate a paramedic course. A paramedic course coordinator shall not practice as a paramedic unless they are also licensed as a paramedic;

(15) "Paramedic preceptor" means a licensed paramedic who supervises a paramedic student during the field portion of the student's training;

(16) "Prehospital care" means the provision of emergency medical services or transportation by trained and certified or licensed emergency medical services personnel at the scene or while transporting sick or injured persons to a hospital or other emergency medical facility; and

(17) "Trauma" means a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.

Section 593. KRS 311A.020 is amended to read as follows:

(1) The board shall:

(a) Exercise all of the administrative functions of the state not regulated by the Board of Medical Licensure or Cabinet for Health ***and Family*** Services in the regulation of the emergency medical services system and the practice of first responders, emergency medical technicians, paramedics, ambulance services, and emergency medical services training institutions;

(b) Issue any licenses or certifications authorized by this chapter;

(c) Oversee the operations and establish the organizational structure of the Office of the Kentucky Board of Emergency Medical Services, which is created and shall be attached to the board for administrative purposes. The office shall be headed by the executive director appointed under paragraph (d) of this subsection and shall be responsible for:

1. Personnel and budget matters affecting the board;
2. Fiscal activities of the board, including grant writing and disbursement of funds;
3. Information technology, including the design and maintenance of databases;
4. Certification and recertification of first responders;
5. Certification and recertification of emergency medical technicians;
6. Licensure and relicensure of ambulances and ambulance services;
7. Licensure and relicensure of paramedics;
8. Certification and recertification of paramedic course coordinators;
9. Investigation of and resolution of quality complaints and ethics issues; and
10. Other responsibilities that may be assigned to the executive director by the board;

(d) Employ an executive director and deputy executive director and fix the compensation. The executive director and deputy executive director shall serve at the pleasure of the board, administer the day-to-day operations of the Office of the Kentucky Board of Emergency Medical Services, and supervise all directives of the board. The director and deputy executive director shall possess a baccalaureate degree and shall have no less than five (5) years of experience in public administration or in the administration of an emergency medical services program;

(e) Employ or contract with a physician licensed in Kentucky who is board certified in emergency medicine and fix the compensation. The physician shall serve at the pleasure of the board and as the medical advisor to the Kentucky Board of Emergency Medical Services and the staff of the board;

(f) Employ or contract with a general counsel licensed to practice law in Kentucky and fix the compensation. The general counsel shall serve at the pleasure of the board;

(g) Employ personnel sufficient to carry out the statutory responsibilities of the board.

1. Personnel assigned to investigate a first responder program complaint or regulate the first responder programs shall be certified first responders, emergency medical technicians, or licensed paramedics.
2. Personnel assigned to investigate an emergency medical technician program complaint or regulate the emergency medical technician program shall be certified emergency medical technicians or paramedics.
3. Personnel assigned to investigate a paramedic program complaint or regulate the paramedic program shall be licensed paramedics.
4. A person who is employed by the board who is licensed or certified by the board shall retain his or her license or certification if he or she meets the in-service training requirements and pays the fees specified by administrative regulation.
5. A person who is employed by the board may instruct in emergency medical subjects in which he or she is qualified, with the permission of the board. All instruction shall be rendered without remuneration other than his or her state salary and the employee shall be considered as on state duty when teaching.
6. A person who is employed by the board may render services for which the person is qualified at a declared disaster or emergency or in a situation where trained personnel are not available until those personnel arrive to take over the patient, or where insufficient trained personnel are available to handle a specific emergency medical incident. All aid shall be rendered without remuneration other than the employee's state salary and the employee shall be considered as on state duty when rendering aid. In cases specified in this paragraph, the state medical advisor shall serve as the emergency medical services medical director for the employee;

(h) Establish committees and subcommittees and the membership thereof. Members of committees and subcommittees do not need to be members of the board;

(i) Enter into contracts, apply for grants and federal funds, and disburse funds to local units of government as approved by the General Assembly. All funds received by the board shall be placed in a trust and agency account in the State Treasury subject to expenditure by the board;

(j) Administer the Emergency Medical Services for Children Program; and

(k) Establish minimum curriculum and standards for emergency medical services training.

(2) The board may utilize materials, services, or facilities as may be made available to it by other state agencies or may contract for materials, services, or facilities.

(3) The board may delegate to the executive director, by written order, any function other than promulgation of an administrative regulation specified in this chapter.

(4) Except for securing funding for trauma centers and the implementation of KRS 311A.170, the board shall not regulate a trauma center.

Section 594. KRS 311A.115 is amended to read as follows:

The Kentucky Board of Emergency Medical Services shall, by regulation, require an applicant for licensure as a paramedic to have completed a board or Cabinet for Health ***and Family*** Services-approved educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change. The board shall require continuing education that updates this training at least one (1) time every ten (10) years that is consistent with and as required for other health care providers under KRS 214.610.

Section 595. KRS 313.254 is amended to read as follows:

(1) The board may grant a temporary license to a dentist or dental hygienist who holds a currently valid license from another state, district, possession, or territory of the United States for the sole purpose of providing medical care to indigent populations who may not otherwise be able to obtain such services, without expectation of compensation or charge to the individual, and without payment or reimbursement by any governmental agency or insurer. The health care services shall be provided to charitable organizations only. The license shall be valid for a seven (7) day period.

(2) To obtain the temporary license issued under subsection (1) of this section, the dentist or dental hygienist shall:

(a) Apply to the Board of Dentistry at least thirty (30) days prior to providing the health care services under subsection (1) of this section;

(b) Include in the application a letter from the jurisdiction in which the dentist or dental hygienist is licensed that indicates the applicant's license number and a statement that indicates that the dentist or the dental hygienist is in good standing in the licensing jurisdiction; and

(c) Pay a twenty-five dollar ($25) registration fee.

(3) Prior to beginning the services permitted under subsection (1) of this section, the dentist or dental hygienist shall notify the appropriate agent in the Cabinet for Health ***and Family*** Services.

(4) A dentist or dental hygienist working under this section may perform all preventive procedures and treatments including but not limited to scaling, prophylaxis, radiographs, sealants, and fluoride application.

(5) In addition to the procedures permitted under subsection (4) of this section, a dentist may perform those procedures or treatments considered to be routine in nature and that are typically performed and completed in one (1) appointment. The procedures include simple extractions and basic restorative procedures. All procedures performed other than those provided in this subsection and subsection (4) of this section shall be performed by a dentist holding a currently valid license in the Commonwealth.

(6) A dentist or dental hygienist working under this section who registers as a charitable health care provider under KRS 216.941 shall be eligible for the provision of medical malpractice insurance procured under KRS 304.40-075.

(7) The board shall promulgate administrative regulations that are reasonably necessary to administer this section.

Section 596. KRS 314.077 is amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, upon receipt of a notice from the Cabinet for ***Health and Family Services***[~~Families and Children~~] that a nurse is in violation of KRS 205.712, the board shall issue an order suspending the nurse's license. If the individual is an applicant for licensure, the board shall issue a denial of licensure. The order shall constitute disciplinary action against the nurse or individual.

(2) Suspension of a license or denial of licensure under subsection (1) of this section shall continue until the Cabinet for ***Health and Family Services***[~~Families and Children~~] notifies the board that the nurse or individual is no longer in violation of KRS 205.712.

(3) A nurse shall not be entitled to a hearing before the board on a suspension of a license in child support cases administered by the Cabinet for ***Health and Family Services***[~~Families and Children~~] in accordance with 42 U.S.C. secs. 651 et seq.

(4) To reinstate a license suspended under this section, a nurse shall comply with all reinstatement requirements.

Section 597. KRS 315.035 is amended to read as follows:

(1) No person shall operate a pharmacy without having first obtained a permit as provided for in KRS Chapter 315. An application for a permit to operate a pharmacy shall be made to the board upon forms provided by it and shall contain such information as the board requires, which may include affirmative evidence of ability to comply with such reasonable standards and rules and regulations as may be prescribed by the board. Each application shall be accompanied by a reasonable permit fee to be set by administrative regulation promulgated by the board pursuant to KRS Chapter 13A, not to exceed two hundred fifty dollars ($250).

(2) Upon receipt of an application of a permit to operate a pharmacy, accompanied by the permit fee not to exceed two hundred fifty dollars ($250), the board shall issue a permit if the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall refuse to renew any permit to operate unless the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall act upon an application for a permit to operate within thirty (30) days after the receipt thereof; provided, however, that the board may issue a temporary permit to operate in any instance where it considers additional time necessary for investigation and consideration before taking final action upon the application. In such event, the temporary permit shall be valid for a period of thirty (30) days, unless extended.

(3) A separate permit to operate shall be required for each pharmacy.

(4) Each permit to operate a pharmacy, unless sooner suspended or revoked, shall expire on June 30 following its date of issuance and be renewable annually thereafter upon proper application accompanied by such reasonable renewal fee as may be set by administrative regulation of the board, not to exceed two hundred fifty dollars ($250) nor to increase more than twenty-five dollars ($25) per year. An additional fee not to exceed the annual renewal fee may be assessed as a penalty for failure to renew by August 1 of each year.

(5) Permits to operate shall be issued only for the premises and persons named in the application and shall not be transferable; provided however, that a buyer may operate the pharmacy under the permit of the seller pending a decision by the board of an application which shall be filed by the buyer with the board at least five (5) days prior to the date of sale.

(6) The board may promulgate rules and regulations to assure that proper equipment and reference material is on hand considering the nature of the pharmaceutical practice conducted at the particular pharmacy and to assure reasonable health and sanitation standards for areas within pharmacies which are not subject to health and sanitation standards promulgated by the Kentucky Cabinet for Health ***and Family*** Services or a local health department.

Section 598. KRS 315.121 is amended to read as follows:

(1) The board may refuse to issue or renew a license, permit, or certificate to, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee,

permit holder, or certificate holder for the following reasons:

(a) Unprofessional or unethical conduct;

(b) Mental or physical incapacity that prevents the licensee, permit holder, or certificate holder from engaging in the practice of pharmacy or the wholesale distribution or manufacturing of drugs with reasonable skill, competence, and safety to the public;

(c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more or the following:

1. A felony;
2. An act involving moral turpitude or gross immorality; or
3. A violation of the pharmacy or drug laws, rules, or administrative regulations of this state, any other state, or the federal government;

(d) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician is incapable of engaging or assisting in the practice of pharmacy with reasonable skill, competence, and safety to the public and failing to report any relevant information to the board;

(e) Knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a license, permit, or certificate;

(f) Engaging in fraud in connection with the practice of pharmacy or the wholesale distribution or manufacturing of drugs;

(g) Engaging in or aiding and abetting an individual to engage in the practice of pharmacy without a license or falsely using the title of "pharmacist," "pharmacist intern," or other term which might imply that the individual is a pharmacist or pharmacist intern;

(h) Being found by the board to be in violation of any provision of this chapter, KRS Chapter 217, KRS Chapter 218A, or the administrative regulations promulgated pursuant to these chapters;

(i) Violation of any order issued by the board to comply with any applicable law or administrative regulation; or

(j) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician has engaged in or aided and abetted the unlawful distribution of legend medications, and failing to report any relevant information to the board.

(2) Unprofessional or unethical conduct includes but is not limited to the following acts of a pharmacist or pharmacist intern:

(a) Publication or circulation of false, misleading, or deceptive statements concerning the practice of pharmacy;

(b) Divulging or revealing to unauthorized persons patient information or the nature of professional services rendered without the patient's express consent or without order or direction of a court. In addition to members, inspectors, or agents of the board, the following are considered authorized persons:

1. The patient, patient's agent, or another pharmacist acting on behalf of the patient;
2. Certified or licensed health-care personnel who are responsible for care of the patient;
3. Designated agents of the Cabinet for Health ***and Family*** Services for the purposes of enforcing the provisions of KRS Chapter 218A;
4. Any federal, state, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person; or
5. An agency of government charged with the responsibility of providing medical care for the patient, upon written request by an authorized representative of the agency requesting such information;

(c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist or pharmacy intern knows or should have known of their intended use in illegal activities;

(d) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury;

(e) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;

(f) Selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug;

(g) Willfully or knowingly failing to maintain complete and accurate records of all drugs received, dispensed, or disposed of in compliance with federal and state laws, rules, or administrative regulations;

(h) Obtaining any remuneration by fraud, misrepresentation, or deception;

(i) Accessing or attempting to access confidential patient information for persons other than those with whom a pharmacist has a current pharmacist-patient relationship and where such information is necessary to the pharmacist to provide pharmacy care; or

(j) Failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful.

(3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading nolo contendere, or who is found guilty of a violation prescribed in subsection (1)(c) of this section shall within thirty (30) days notify the board of that plea or conviction. Failure to do so shall be grounds for suspension or revocation of the license, certificate, or permit.

(4) Any person whose license, permit, or certificate has been revoked in accordance with the provisions of this section, may petition the board for reinstatement. The petition shall be made in writing and in a form prescribed by the board. The board shall investigate all reinstatement petitions, and the board may reinstate a license, permit, or certificate upon showing that the former holder has been rehabilitated and is again able to engage in the practice of pharmacy with reasonable skill, competency, and safety to the public. Reinstatement may be on the terms and conditions that the board, based on competent evidence, reasonably believes necessary to protect the health and welfare of the citizens of the Commonwealth.

(5) Upon exercising the power of revocation provided for in subsection (1) of this section, the board may reasonably prohibit any petition for reinstatement for a period up to and including five (5) years.

(6) Any licensee, permit holder, or certificate holder who is disciplined under this section for a minor violation may request in writing that the board expunge the minor violation from the licensee's, permit holder's, or certificate holder's permanent record.

(a) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee, permit holder, or certificate holder has completed disciplinary sanctions imposed and if the licensee, permit holder, or certificate holder has not been disciplined for any subsequent violation of the same nature within this period of time.

(b) No person may have his or her record expunged under this section more than once.

The board shall promulgate administrative regulations under KRS Chapter 13A to establish violations which are minor violations under this subsection. A violation shall be deemed a minor violation if it does not demonstrate a serious inability to practice the profession; adversely affect the public health, safety, or welfare; or result in economic or physical harm to a person, or create a significant threat of such harm.

Section 599. KRS 317.440 is amended to read as follows:

(1) To protect the health and safety of the public or to protect the public against misrepresentation, deceit, or fraud in the practice or teaching of barbering, the board shall promulgate administrative regulations:

(a) Governing the location and housing of barber shops or schools;

(b) Governing the quantity and quality of equipment, supplies, materials, records, and furnishings required in barber shops or schools;

(c) Governing the training and supervision of barber apprentices;

(d) Governing the qualifications of teachers of barbering;

(e) Governing the hours and courses of instruction at barber schools;

(f) Governing the examinations of applicants for barber, apprentice barber, or teacher of barbering.

(2) The board shall establish fees by administrative regulation according to the schedules established in KRS 317.450.

(3) Administrative regulations pertaining to health and sanitation shall be approved by the Kentucky secretary for health ***and family*** services before becoming effective.

Section 600. KRS 318.134 is amended to read as follows:

(1) No person, firm, or corporation shall:

(a) Construct, install, or alter, or cause to be constructed, installed, or altered, any plumbing without first having procured a plumbing installation permit therefor from the department;

(b) Use or continue to use, or permit the use or continued use of, any plumbing constructed, installed, or altered under a plumbing installation permit issued therefor where the department through a duly authorized inspector, employee, or agent, finds that the plumbing was not constructed, installed, or altered in accordance with such permit and the Kentucky State Plumbing Code.

(2) All applications for plumbing installation permits shall be accompanied by plans and specifications of the proposed plumbing installation, location, and construction of the water supply system to be used. If an on-site sewage disposal system that does not have a surface discharge is proposed, a valid on-site sewage disposal permit issued by the Cabinet for Health ***and Family*** Services or its designated agent shall accompany the application.

(3) The department shall fix a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. The department shall also fix a reasonable schedule of fees and charges to be paid for necessary inspections of the construction, installation, or alteration of plumbing in public buildings.

Section 601. KRS 318.160 is amended to read as follows:

Except as otherwise provided by law or by regulation of the department, no person shall construct, install, or extensively alter any plumbing, sewerage, or water supply system of any public building or establishment without having first obtained the approval of the department in writing. Detailed plans and specifications of the proposed facility showing the plumbing system, sewage disposal system, and water supply system shall be submitted to the department prior to the construction or alteration of the facility. In the event no public sewer is available, the plan shall include the proposed type of sewage disposal system. In the event a sewage subsoil drainage system is used, or some other type of on-site sewage disposal system that does not have a surface discharge, the application for construction, installation, or alteration of such system shall be submitted to the Cabinet for Health ***and Family*** Services or its designated agent. All other plans and specifications shall be submitted in triplicate to the department. The department shall notify the applicant in writing of the approval or disapproval of the plans. The construction, installation, or alteration shall be done in accordance with the approved plans.

Section 602. KRS 333.020 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise, the following terms shall have the meanings set forth below:

(1) "Person" means any individual, firm, partnership, association, corporation, municipality, political subdivision, or any other entity whether organized for profit or not;

(2) "Cabinet" means the Cabinet for Health ***and Family*** Services;

(3) "Medical laboratory" means any institution, building, place, or any other facility in which operations and procedures for the microbiological, serological, chemical, hematological, immunohematological, biophysical, cytological, pathological, or other methods of examination of tissues including blood, secretions, and excretions of the human body are performed to obtain information in diagnosing, preventing, or treating disease, or in which the results of any examination, determination, or test are used as a basis for health advice. These activities include the diagnosis and identification of disease by the examination of tissues removed by surgery and also the determination of cause of death by the examination of tissues removed at autopsy. The term "clinical laboratory" shall be deemed synonymous with the term "medical laboratory," and includes laboratories operated and maintained exclusively for teaching purposes;

(4) "Medical laboratory director" means the individual who is responsible for the administrative, scientific, and technical operation of the medical laboratory, including supervision of laboratory procedures, reporting of findings, and active participation to such extent as may be necessary to assure compliance with the law. He shall be responsible for the proper performance of all work in the laboratory and shall direct, supervise, and be responsible for the work of subordinates;

(5) "Medical laboratory supervisor" means an individual who, under the general supervision of a medical laboratory director, supervises technical personnel, performs tests requiring special scientific skills, experience, and educational background, and, in the absence of the director, is held responsible for the proper performance of all medical laboratory procedures and the reporting of results;

(6) "Medical laboratory technologist" means an individual who performs tests which require the exercise of independent judgment and responsibility, with minimal supervision by the director or supervisor, in only those specialties or subspecialties in which they are qualified by education, training, and experience;

(7) "Medical laboratory technician" means any individual other than the medical laboratory director, supervisor, technologist, or trainee who functions under the supervision of a medical laboratory director, supervisor, or technologist and performs only those medical laboratory procedures which require limited skill, responsibility, and a minimal exercise of independent judgment;

(8) "Medical laboratory trainee" means any individual in a medical laboratory who is seeking training and experience which, combined with the appropriate educational background, will qualify that person for employment as a "medical technologist" or "medical laboratory technician." Trainees may perform procedures under the direct supervision of the laboratory director, supervisor, or medical technologist;

(9) "Medical laboratory personnel" includes the medical laboratory director, supervisor, technologist, or technician, but does not include medical laboratory assistants, trainees, or other individuals employed by a medical laboratory to perform clerical or other administrative responsibilities;

(10) "Medical laboratory evaluation program" means a program for evaluating the proficiency of medical laboratories by the cabinet; and

(11) "Medical laboratory advisory committee" shall mean a group of consultants appointed by the secretary for health ***and family*** services or his designee to advise the cabinet on matters relating to the regulation of medical laboratories.

Section 603. KRS 333.040 is amended to read as follows:

This chapter applies to all medical laboratories within the State of Kentucky, except:

(1) Medical laboratories operated by the United States government;

(2) Medical laboratories operated by a licensed physician, or a group of licensed physicians, solely and exclusively in connection with the diagnosis and treatment of their own patients; if any referred work is received or performed by such medical laboratories, all provisions of this chapter shall apply;

(3) Medical laboratories operated by hospitals licensed by the secretary for health ***and family*** services;

(4) Medical laboratories operated and maintained exclusively for research purposes, involving no patient or public health

service whatsoever; and

(5) Medical laboratories operated by facilities holding a permit pursuant to KRS 315.035 and holding a valid certification issued pursuant to the Clinical Laboratory Improvement Act of 1988 (CLIA), as amended, solely and exclusively in connection with assisting a patient with the use of CLIA-waived tests available from the facility's stock or inventory, and in connection with testing and treatment of patients covered under collaborative care agreements established under KRS 315.010 and other applicable laws. If any referred work is received or performed by these medical laboratories, all provisions of this chapter shall apply.

Section 604. KRS 333.220 is amended to read as follows:

The secretary for health ***and family*** services shall appoint an advisory committee to advise the cabinet in the fulfillment of its responsibilities under this chapter. The committee shall be composed of nine (9) appointed members. The secretary for health ***and family*** services or his designated representative shall be an ex officio member. All appointed members shall serve for a term of four (4) years or until their successors are appointed and qualified. One (1) member shall be appointed from a list of three (3) names submitted by the Kentucky Hospital Association. One (1) member shall be appointed from a list of three (3) names submitted by the Kentucky State Society of American Medical Technologists. Two (2) members shall be appointed from a list of three (3) names for each position submitted by the Kentucky State Society of Medical Technologists. Five (5) members shall be appointed from a list of three (3) names for each position submitted by the Kentucky Medical Association, provided, however, that at least three (3) of such positions shall be filled only by pathologists who are directors of medical laboratories, and who have been recommended to the Kentucky Medical Association by the Kentucky Society of Pathologists.

Section 605. KRS 334.140 is amended to read as follows:

(1) There is created the Kentucky Licensing Board for Specialists in Hearing Instruments.

(2) The board shall be composed of nine (9) members who shall be appointed by the Governor. Terms of office shall be at the Governor's discretion, not to exceed four years. All terms shall expire on July 31 of the designated year. Each member shall serve for the term of his appointment and until his successor has been appointed and qualified. If a vacancy occurs on the board, a new member shall be appointed to serve out the unexpired term. No member shall serve consecutive terms on the board. Upon recommendation of the board, the Governor may remove any member of the board for excessive absenteeism, neglect of duty, or malfeasance in office.

(3) Five (5) members shall be specialists in hearing instruments licensed under KRS 334.080. The appointees shall have at least five (5) years' relevant experience. The Governor shall consider nominations from the Hearing Aid Association of Kentucky. No two (2) members from the same place of business may serve on the board at the same time.

(4) One (1) member shall be a physician licensed to practice medicine in Kentucky and specializing in otology or otolaryngology.

(5) One (1) member shall be an audiologist holding at least a master's degree from a recognized college or university and having the certification of clinical competence in audiology from the American Speech-Language-Hearing Association and licensed under KRS Chapter 334A.

(6) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated.

(7) One (1) member shall be the secretary of the Cabinet for Health ***and Family*** Services or his designee.

(8) Five (5) members of the nine (9) members of the board, when properly convened, may conduct the business of the board.

Section 606. KRS 336.090 is amended to read as follows:

(1) The department shall be furnished with a copy of all the laws and rulings of the secretary for health ***and family*** services affecting sanitary conditions in places of employment, not covered by the labor laws of the state, and shall report in writing to the state, county, or city health authorities any violations coming under the observation of its inspectors while visiting places of employment in the regular performance of their duty.

(2) The inspectors shall be furnished with a copy of all the laws and rulings of the Department of Housing, Buildings and Construction relating to fire hazards in places of employment, and shall report in writing to the state, county, or city authorities any violations coming under their observation while visiting places of employment in the regular performance of their duty.

Section 607. KRS 337.285 is amended to read as follows:

(1) No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed.

(2) This provision shall not apply to the following:

(a) Employees of retail stores engaged in work connected with selling, purchasing, and distributing merchandise, wares, goods, articles, or commodities;

(b) Employees of restaurant, hotel, and motel operations;

(c) Employees as defined and exempted from the overtime provision of the Fair Labor Standards Act in Sections

213(b)(1), 213(b)(6), 213(b)(10), and 213(b)(17) of Title 29, U.S.C.;

(d) Employees whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private nonprofit childcaring facilities licensed by the Cabinet for Health ***and Family*** Services under KRS 199.640 to 199.670; or

(e) Any individual who is employed by a third-party employer or agency other than the family or household using his or her services to provide in-home companionship services for a sick, convalescing, or elderly person.

(3) As used in subsection (2) of this section, "companionship services" means those services which provide in-home fellowship, care, and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. These services may include household work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services. They may also include the performance of general household work, provided that the household work is incidental, i.e., does not exceed twenty percent (20%) of the total weekly hours worked. The term "companionship services" does not include services relating to the care and protection of the aged or infirm which require and are performed by trained personnel, such as a registered or practical nurse.

(4) Notwithstanding the provisions of subsection (1) of this section or any other chapter of the KRS to the contrary, upon written request by a county employee, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county employee before the performance of the work, a county employee who is authorized to work one (1) or more hours in excess of the prescribed hours per week may be granted compensatory leave on an hour-for-hour basis. Upon the written request by a county employee, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county employee before the performance of the work, a county employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. et seq., may be granted compensatory time in lieu of overtime pay, at the rate of not less than one and one-half (1-1/2) hours for each hour the county employee is authorized to work in excess of forty (40) hours in a work week.

(5) (a) Upon the request of the county employee, and as provided in subsection (4) of this section, compensatory time shall be awarded as follows:

1. A county employee who provided work in excess of forty (40) hours in a public safety activity, an emergency response activity, or a seasonal activity as described in 29 C.F.R. sec. 553.24, may accrue not more than four hundred eighty (480) hours of compensatory time; or

2. A county employee engaged in other work in excess of forty (40) hours, may accrue not more than two hundred forty (240) hours of compensatory time.

(b) A county employee who has accrued four hundred eighty (480) hours of compensatory time off pursuant to paragraph (a)1. of this subsection, or two hundred forty (240) hours of compensatory time off pursuant to paragraph (a)2. of this subsection, shall for additional overtime hours of work, be paid overtime compensation.

(6) A county employee who has accrued compensatory time off as provided in subsection (4) of this section, and who requested the use of compensatory time, shall be permitted by the employer to use the compensatory time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the employer. Mere inconvenience to the employer shall not constitute a sufficient basis for denial of a county employee's request for compensatory time off.

(7) If compensation is paid to a county employee for accrued compensatory time off, the compensation shall be paid at the regular rate earned by the county employee at the time the county employee receives the payment.

(8) Upon a county employee's termination of employment, all unused accrued compensatory time shall be paid at a rate of compensation not less than:

(a) The average regular rate received by the county employee during the last three (3) years of the county employee's employment; or

(b) The final regular rate received by the county employee, whichever is higher.

(9) Compensatory time shall not be used as a means to avoid statutory overtime compensation. A county employee shall have the right to use compensatory time earned and shall not be coerced to accept more compensatory time than an employer can realistically and in good faith expect to be able to grant within a reasonable period upon the county employee making the request for compensatory time off.

(10) Nothing in subsections (4) to (9) of this section shall be construed to supersede any collective bargaining agreement, memorandum of understanding, or any other agreement between the employer and representative of the county employees.

(11) As used in subsections (4) to (9) of this section, "county employee" means an employee of any county, charter county, consolidated local government, or urban-county government, including an employee of a county elected official.

Section 608. KRS 338.041 is amended to read as follows:

(1) There is hereby created in the Department of Workplace Standards a Program for Occupational Safety and Health. This

program shall consist of a Division of Occupational Safety and Health Compliance and a Division of Education and Training for Occupational Safety and Health. This program shall administer all matters pertaining to occupational safety and occupational health and shall be under the supervision of an occupational safety and health coordinator. The secretary of the Labor Cabinet shall appoint the occupational safety and health coordinator.

(2) The Department of Workplace Standards may require the assistance of other state agencies and may enter into agreements with other state agencies and political subdivisions of the Commonwealth for the administration of this chapter.

(3) The Department of Workplace Standards may enter into an agreement with the Cabinet for Health ***and Family*** Services and other appropriate departments or agencies to conduct research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems in the administration of this chapter.

Section 609. KRS 339.230 is amended to read as follows:

A minor who has passed his fourteenth birthday but is under eighteen (18) years of age may be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation, except:

(1) If he is under sixteen (16) years of age, he may not be employed during regular school hours, unless:

(a) The school authorities have made arrangements for him to attend school at other than the regular hours, in which event he may be employed subject to regulations of the commissioner of workplace standards during such of the regular school hours as he is not required to be in attendance under the arrangement; or,

(b) He has graduated from high school.

(2) A minor who has passed his fourteenth birthday but is under eighteen (18) years of age, may not be employed, permitted, or suffered to work:

(a) In any place of employment or at any occupation, that the commissioner of workplace standards shall determine to be hazardous or injurious to the life, health, safety, or welfare of such minor;

(b) More than the number of days per week, nor more than the number of hours per day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety, or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments, but in no event may he make them less restrictive;

(c) During the hours of the day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety, or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he make them less restrictive; and

(d) In, about, or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption, or dispensed unless permitted by the rules and regulations of the Alcoholic Beverage Control Board (except he may be employed in places where the sale of alcoholic beverages by the package is merely incidental to the main business actually conducted); or in a pool or billiard room.

(3) The commissioner of workplace standards shall promulgate regulations to properly protect the life, health, safety, or welfare of minors. He may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, number of hours, hours of the day, nature of the employment, and other pertinent factors. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he make them less restrictive, provided, however, these regulations shall have no effect on the definition of "gainful occupation" under KRS 339.210. To advise the commissioner with respect to the regulations, the Governor shall appoint a committee of four (4) persons which shall consist of a representative from the Cabinet for Health ***and Family*** Services, the Department of Education, the Kentucky Commission on Human Rights and the Personnel Cabinet. The regulations promulgated in accordance with this section shall be reviewed by such committee whenever deemed necessary by the commissioner of workplace standards.

Section 610. KRS 341.067 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Hospital" means an institution which has been licensed, certified, or approved by the secretary for health ***and family*** services as a hospital;

(2) "Institution of higher education" means an educational institution which:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(b) Is legally authorized in this state to provide a program of education beyond high school;

(c) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(d) Is a public or other nonprofit institution;

(3) Notwithstanding any of the foregoing provisions of this section, all recognized colleges and universities in this state are institutions of higher education for purposes of this chapter; and

(4) (a) "Educational institution," including an institution of higher education as defined in subsection (2) of this section, means:

1. A school in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by, or under the guidance of an instructor or teacher;

2. It is approved, licensed, or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the state to approve, license, or issue a permit for the operation of a school; and

3. The courses of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(b) In any particular case, the question of whether or not an institution is an educational institution within the meaning of the criteria described above will depend on what that particular institution actually does.

Section 611. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. Except as otherwise provided in KRS 342.316, the clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

(3) The commissioner or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health ***and Family*** Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.

(7) The General Assembly finds that good public policy mandates the realization of the potential advantages, both economic and effectual, of the use of telemedicine and telehealth. The commissioner may, to the extent that he finds it feasible and appropriate, require the use of telemedicine and telehealth practices, as authorized under KRS 11.550, in the independent medical evaluation process required by this chapter.

Section 612. KRS 346.050 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the following persons shall be eligible for awards pursuant to this chapter:

(a) A victim of criminally injurious conduct;

(b) A surviving spouse, parent, or child of a victim of criminally injurious conduct who died as a direct result of such conduct;

(c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime; and

(d) Any person who is legally responsible for the medical expenses or funeral expenses of a victim.

(2) No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the board may award compensation to a victim or dependent who is a relative, family or household member of the offender only if the board can reasonably determine the offender will not receive significant economic benefit or unjust enrichment from the compensation.

(3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban-county, or city jail, prison, or other correctional facility, or any state institution maintained and operated by the Cabinet for Health ***and Family*** Services.

Section 613. KRS 347.040 is amended to read as follows:

(1) The secretaries of the Cabinet for Health ***and Family*** Services and the Education, Arts, and Humanities Cabinet and the chief state school officer shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:

(a) Identification and prompt and adequate interdisciplinary assessment;

(b) Case management services; and

(c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the Legislative Research Commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:

(a) The number of institution residents on waiting lists for placement in the community;

(b) The number of persons outside institutions on waiting lists for placement in the institution;

(c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;

(d) The number, type, nature, and cost of services necessary for placement to occur;

(e) The status of compliance with the plan;

(f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and

(g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this chapter.

Section 614. KRS 347.050 is amended to read as follows:

The Cabinet for Health ***and Family*** Services, the Education, Arts, and Humanities Cabinet, and the Department of Education shall promulgate and implement rules and regulations for the:

(1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this chapter, including, but not limited to, the right to:

(a) Provision of services in the least restrictive, individually appropriate environment;

(b) An individualized service plan;

(c) Privacy and humane service;

(d) Confidentiality, access, referral, and transfer of records;

(e) Monitored active treatment in the least restrictive, individually appropriate environment;

(f) Notice of rights under this chapter; and

(g) A fair, timely, and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, residential alternatives, and the protection of the rights of persons with developmental disabilities under this chapter.

(2) Implementation of this chapter providing for the orderly development of services and coordination among organizational units, administrative bodies, and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

Section 615. KRS 347.060 is amended to read as follows:

The Cabinet for Health ***and Family*** Services, the Education, Arts, and Humanities Cabinet, and the Department of Education may assess reasonable charges for services rendered under this chapter, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this chapter may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of KRS 347.010.

Section 616. KRS 363.840 is amended to read as follows:

Nothing contained in KRS 363.510 to 363.850 shall be construed as amending, repealing, or superseding any provision of KRS 217.005 to 217.215 (the Kentucky Food, Drug and Cosmetic Act) or the regulations adopted thereunder by the secretary for health ***and family*** services.

Section 617. KRS 365.425 is amended to read as follows:

No application for a going-out-of-business sale shall be accepted by the county clerk if the sale involves foods or drugs damaged by fire or other casualty unless the approval of the Cabinet for Health ***and Family*** Services has first been obtained.

Section 618. KRS 387.540 is amended to read as follows:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report may be filed as a single and joint report of the interdisciplinary evaluation team, or it may otherwise be constituted by the separate reports filed by each individual of the team. If the court and all parties to the proceeding and their attorneys agree to the admissibility of the report or reports, the report or reports shall be admitted into evidence and shall be considered by the jury. The report shall be compiled by at least three (3) individuals, including a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a person licensed or certified as a social worker or an employee of the Cabinet for ***Health and Family Services***[~~Families and Children~~] who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall, when possible, be chosen from among employees of the Cabinet for ***Health and Family Services***[~~Families and Children~~] residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010(12).

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) An opinion whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employee of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6) of this section, the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least ten (10) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employee of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employee of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence shall be admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for the evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

Section 619. KRS 387.600 is amended to read as follows:

(1) The court may appoint as limited guardian, guardian, limited conservator, or conservator any suitable person or any entity, public or private, capable of conducting an active guardianship or conservatorship program. The court shall not ordinarily or customarily appoint the Cabinet for ***Health and Family Services***~~[Families and Children]~~ or any other person or entity, public or private, that is directly providing services to the respondent unless no other suitable person or entity is available and willing to be appointed. Appointment of the Cabinet for ***Health and Family Services***~~[Families and Children]~~ shall be consistent with the provisions of KRS 210.290.

(2) Prior to the appointment, the court shall make a reasonable effort to question the respondent concerning his preference regarding the person or entity to be appointed limited guardian, guardian, limited conservator, or conservator, and any preference indicated shall be given due consideration. If the respondent has designated another as his attorney in fact or agent by executing a power of attorney in writing, that designation shall be treated as an indication of the respondent's preference as to the person or entity to be appointed as his limited guardian, guardian, limited conservator, or conservator, and that preference shall be given due consideration. The court shall appoint the person or entity best qualified and willing to serve.

Section 620. KRS 387.610 is amended to read as follows:

Prior to the expiration of a term of guardianship or conservatorship, the limited guardian, guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for a renewal of his appointment for a period not to exceed five (5) years. The petition shall be accompanied by verified affidavits of a physician, or a psychologist licensed or certified under the provisions of KRS Chapter 319, or a person licensed or certified as a social worker or an employee of the Cabinet for ***Health and Family Services***~~[Families and Children]~~ who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c) supporting the need for the continuation of the guardianship or conservatorship.

Section 621. KRS 402.100 is amended to read as follows:

Each county clerk shall use the form prescribed by the Department for Libraries and Archives when issuing a marriage license. This form shall provide for the entering of all of the information required in this section, and may also provide for the entering of additional information prescribed by the Department for Libraries and Archives. The form shall consist of:

(1) A marriage license which provides for the entering of:

(a) An authorization statement of the county clerk issuing the license for any person or religious society authorized to perform marriage ceremonies to unite in marriage the persons named;

(b) Vital information for each party, including the full name, date of birth, place of birth, race, condition (single, widowed, or divorced), number of previous marriages, occupation, current residence, relationship to the other party, full names of parents, and the Social Security number of each party if that party has a Social Security number; and

(c) The date and place the license is issued, and the signature of the county clerk or deputy clerk issuing the license.

(2) A marriage certificate which provides for the entering of:

(a) A statement by the person performing the marriage ceremony or the clerk of the religious society authorized to solemnize the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony or the name of the religious society solemnizing the marriage, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses;

(b) A statement by the person performing the marriage ceremony of his legal qualification under this chapter to perform the ceremony, such statement to include the name of the county or city where his license to perform marriage ceremonies was issued or, in the case of religious societies authorized by KRS 402.050(c) to solemnize marriages, the name of the city or county where the religious society is incorporated. The provisions of this paragraph shall not be construed to require the clerk of a religious society to be present at the marriage so long as the witnesses of the society are present;

(c) A dated signature of the person performing the ceremony; and

(d) A signed statement by the county clerk or a deputy county clerk of the county in which the marriage license was issued that the marriage certificate was recorded. The statement shall indicate the name of the county and the date the marriage certificate was recorded.

(3) A certificate to be delivered by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony to the parties married. This certificate shall provide for the entering of:

(a) A statement by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, or the name of the religious society performing the ceremony, the names of persons married, the date and place of the marriage, the names of two (2) witnesses, and the following information as recorded on the license authorizing the marriage: the date the license was issued, the name of the county clerk under whose authority the license was issued, and the county in which the license was issued; and

(b) A dated signature of the person performing the ceremony or the clerk of the religious society performing the ceremony.

(4) Any Social Security number recorded on the marriage license shall be stored by the county clerk with a nonidentifying numeric, and the nonidentifying numeric shall be recorded on the marriage license form. The Social Security number shall not be available for public release except for use by the Cabinet for ***Health and Family Services***[~~Families and Children~~] in efforts to enforce child support.

Section 622. KRS 402.320 is amended to read as follows:

Every physician examining applicants for a marriage license may obtain an appropriate blood specimen from each applicant and forward same to the Division of Laboratory Services, Cabinet for Health ***and Family*** Services, or to a laboratory approved by the cabinet, to ascertain the existence or nonexistence of sickle cell trait or sickle cell disease, or any other genetically transmitted disease which affects hemoglobin. In the event the laboratory tests indicate that both applicants are carriers of a trait or disease, the physician may provide genetic counseling or refer the applicants to the cabinet or to an agency approved by the cabinet for such counseling.

Section 623. KRS 402.340 is amended to read as follows:

The secretary for health ***and family*** services shall adopt rules and regulations for the proper administration and enforcement of KRS 402.310 to 402.340.

Section 624. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined monthly adjusted parental gross income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) The court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

(7) (a) If health care insurance coverage is reasonable and available at the time the request for coverage is made, the court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, the cost of health care insurance coverage for the child, in addition to the support ordered under the child support guidelines.

(b) A parent, who has one hundred percent (100%) of the combined monthly adjusted parental gross income, shall be entitled to a reduction in gross income of the entire amount of premiums incurred and paid.

(c) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:

1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and

2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

(d) If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their combined monthly adjusted parental gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars ($100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

(9) The court order shall include the Social Security numbers of all parties subject to a support order.

(10) In any case administered by the Cabinet for ***Health and Family Services***[~~Families and Children~~], if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for ***Health and Family Services***[~~Families and Children~~] may, upon application, enroll the child.

(11) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by KRS 205.175.

(12) In the case in which a noncustodial parent provides health care coverage, and changes employment, and the new employer provides health care coverage, the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall transfer notice of the provision for coverage for the child to the employer, which shall operate to enroll this child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice as specified by KRS Chapter 13B.

(13) Notwithstanding any other provision of this section, any wage or income shall not be exempt from attachment or assignment for the payment of current child support or owed or to-be-owed child support.

(14) A payment of money received by a child as a result of a parental disability shall be credited against the child support obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.

Section 625. KRS 403.213 is amended to read as follows:

(1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations and for modification of child support orders for health care. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in

circumstances that is substantial and continuing.

(2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not to be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child unless the child is a high school student when he reaches the age of eighteen (18). In cases where the child becomes emancipated because of age, but not due to marriage, while still a high school student, the court-ordered support shall continue while the child is a high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years. Provisions for the support of the child shall not be terminated by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances. Emancipation of the child shall not terminate the obligation of child support arrearages that accrued while the child was an unemancipated minor.

(4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:

(a) The secretary of the Cabinet for ***Health and Family Services***~~[Families and Children]~~ or a supervisory staff person designated by him;

(b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years' experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;

(c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;

(d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;

(e) Two (2) county attorneys appointed by the president of the County Attorneys Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area;

(f) The Attorney General or his designee, who shall be an attorney from his office;

(g) One (1) person who is a custodial parent;

(h) One (1) person who is a noncustodial parent;

(i) One (1) person who is a parent with split custody; and

(j) One (1) child advocate.

The members designated in paragraphs (g) to (j) of this subsection shall be appointed by the Governor from a list of three (3) names for each category submitted by the Cabinet for ***Health and Family Services***~~[Families and Children]~~. If the status of one (1) of these members changes, the member shall be replaced through appointment by the Governor from a list of three (3) names submitted by the cabinet.

(5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

Section 626. KRS 403.705 is amended to read as follows:

(1) One (1) or more local domestic violence coordinating councils may be established in any jurisdiction or group of counties.

(2) Membership on local domestic violence coordinating councils may include, but not be limited to, judges, Commonwealth's and county attorneys, law enforcement officers, probation or parole officers, spouse abuse center staff, other victim advocates defined under KRS 421.570, family service workers employed by the Cabinet for ***Health and Family Services***~~[Families and Children]~~, mental health professionals, health care professionals, educators, public advocates, and other persons as deemed appropriate.

(3) The purpose of local domestic violence coordinating councils shall include, but not be limited to, the promotion of public awareness about domestic violence, the facilitation of interagency coordination, and the assessment of service delivery related to domestic violence.

(4) Local domestic violence coordinating councils shall develop a local protocol consistent with the model protocol issued by the Governor's Council on Domestic Violence and Sexual Assault.

(5) Local domestic violence coordinating councils may, if authorized by the local coroner or a medical examiner, create a domestic violence fatality review team, the purpose of which shall be to prevent future deaths and injuries related to domestic violence.

(6) Domestic violence fatality review teams of local domestic violence coordinating councils may:

(a) Analyze information regarding local domestic violence fatalities to identify trends, patterns, and risk factors;

(b) Evaluate the effectiveness of local prevention and intervention strategies; and

(c) Recommend, to the Governor's Council on Domestic Violence and Sexual Assault, changes in the Kentucky Revised Statutes, administrative regulations, policies, budgets, and treatment and service standards that may facilitate the prevention of domestic violence fatalities. The fatality review team may establish a protocol for the investigation of domestic violence fatalities and may establish operating rules and procedures as it deems necessary to carry out the purposes of this section.

(7) The review of a case by a domestic violence fatality review team may include information from reports generated or received by agencies, organizations, or individuals responsible for investigation, prosecution, or treatment in the case.

(8) The proceedings, records, opinions, and deliberations of the domestic violence fatality review team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the local team. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the domestic violence fatality review team.

Section 627. KRS 403.7505 is amended to read as follows:

(1) The Cabinet for Health ***and Family*** Services shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish certification standards for mental health professionals providing court-mandated treatment services for domestic violence offenders.

(2) The standards created by the cabinet shall be based on the following principles:

(a) Domestic violence is a pattern of coercive control which includes physical, sexual, psychological, and environmental abuse, and is considered to be criminal conduct;

(b) The primary goal of treatment programs for domestic violence offenders shall be the cessation of violence which will provide for the safety of victims and their children; and

(c) Domestic violence offenders are responsible and shall be held accountable for the violence which they choose to perpetrate.

(3) The standards created by the cabinet shall address the following:

(a) Qualifications of providers of court-mandated domestic violence offender treatment services which shall include appropriate requirements for degree, experience, training, and continuing education;

(b) Procedures for application by providers to receive certification which shall include methods of appeal if certification is denied, and sanctions for noncompliance with the standards which may include revocation of certification;

(c) Admittance and discharge criteria for domestic violence offenders to enter court-mandated treatment services provided pursuant to this section;

(d) Written protocols for referral by a court to certified providers and for progress reports to be made to the court by providers;

(e) Contracts for domestic violence offenders to sign prior to entering court-ordered treatment services provided pursuant to this section. The contract shall specify that certified providers may contact the victims of the offender if the victim chooses to be contacted. The contract shall authorize the provider to release information regarding the offender's progress in treatment to the court, victims, probation and parole officers, and other individuals authorized by the court to receive the information;

(f) Written procedures in compliance with KRS 202A.400, 209.030, and 620.030;

(g) Payment protocols which require the offender to pay the actual cost for any court-mandated evaluation or treatment pursuant to this section, subject to the offender's ability to pay; and

(h) Other provisions which shall further the availability and quality of court-mandated domestic violence offender services.

(4) The cabinet shall:

(a) Maintain a list of providers certified pursuant to this section and regularly submit the list to the Administrative Office of the Courts; and

(b) Collect data from certified providers, which shall include demographic information and clinical characteristics on offenders served, number of offenders admitted into treatment and discharge conditions, total clinical services provided to offenders, and other information necessary to monitor the safety and effectiveness of services provided, to be compiled annually and submitted to the Governor, the Chief Justice of the Kentucky Supreme Court, and the Legislative Research Commission.

(5) No person, association, or organization shall conduct, operate, maintain, advise, or advertise any program that provides court-ordered treatment services for domestic violence offenders without first obtaining or maintaining valid certification under this chapter. If the cabinet has cause to believe that court-ordered treatment services for domestic violence offenders

are being provided by a person or entity that does not possess valid certification under this chapter, the cabinet may institute proceedings, in the Circuit Court of the county in which the person or entity is located or in Franklin Circuit Court, for injunctive relief to terminate the provision of those services.

(6) Any person certified under this section shall submit quarterly to the cabinet:

(a) Demographic information and clinical characteristics on offenders served;

(b) Number of offenders admitted into treatment and discharge conditions;

(c) Total clinical services provided to offenders; and

(d) Other information as required by administrative regulation.

Section 628. KRS 403.783 is amended to read as follows:

(1) For the purposes of KRS 403.783 to 403.785, "law enforcement agency" means any agency of state, county, city, or metropolitan government, or a combination of these, responsible for employing and directing the action of peace officers, including sheriffs and their deputies, sworn police officers, sworn enforcement officers of the Kentucky State Police or other duly authorized state law enforcement agency whose officers are persons with authority to make arrests under the provisions of KRS 403.760(2).

(2) The secretary of the Justice Cabinet, or a designee, in consultation with legal, victims' services, victim advocacy, and mental professionals with an expertise in domestic violence, shall develop a written model policy and procedures manual related to domestic violence for law enforcement agencies. The model policy shall set forth the core elements required to be addressed in each law enforcement agency's policy. The model policy shall also recommend procedures which may be included in local policies. The model policy shall be developed to comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for ***Health and Family Services***[~~Families and Children~~], Department for Community Based Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records. The model policy shall be completed no later than four (4) months after July 15, 1996. The cabinet shall distribute a copy of the model policy to each law enforcement agency in the Commonwealth.

(3) No later than January 1 after July 15, 1996, and July 31 of every even-numbered year which follows, every law enforcement agency shall submit a copy of the agency's written domestic violence policy to the Justice Cabinet.

(4) If a law enforcement agency fails to submit a copy of the agency's written domestic violence policy in a timely manner, the secretary shall promptly notify the law enforcement agency in writing of the requirements contained in this section.

(5) If the secretary determines that a law enforcement agency has submitted a domestic violence policy which is inadequate, the secretary shall reject the policy and provide assistance to the agency in developing an adequate domestic violence policy.

Section 629. KRS 403.785 is amended to read as follows:

(1) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for ***Health and Family Services***[~~Families and Children~~], Department for Community Based Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.

(2) When a law enforcement officer has reason to suspect that a family member, member of an unmarried couple, or household member has been the victim of domestic violence and abuse, the officer shall use all reasonable means to prevent further abuse, including but not limited to:

(a) Remaining at the location of the domestic violence and abuse so long as the officer reasonably suspects there is danger to the physical safety of individuals present without the presence of a law enforcement officer;

(b) Assisting the victim of domestic violence and abuse in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and

(c) Advising the victim immediately of the rights available to them, including the provisions of KRS 403.715 to 403.785.

Section 630. KRS 405.411 is amended to read as follows:

(1) The Cabinet for ***Health and Family Services***[~~Families and Children's~~] designee under KRS 205.712(6) for the administration of child support may compile a list of the names of persons under its jurisdiction who have a child support arrearage that equals or exceeds six (6) months without payment, or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16). The cabinet may furnish this list to the newspaper of general circulation in that county for publication.

(2) The Division of Child Support[~~ Enforcement~~] in the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall determine uniform standards for publication. The cabinet is authorized to promulgate the necessary administrative regulations under KRS Chapter 13A to implement the provisions of this section.

(3) For purposes of this section, "newspaper of general circulation" means a publication bearing a title or name, regularly

issued at least as frequently as once a week for a definite price, having a second-class mailing privilege, being not less than four (4) pages, published continuously during the immediately preceding one (1) year period, which is published for the dissemination of news of general interest, and is circulated generally in the political subdivision in which it is published and in which notice is to be given. In any county where a publication fully complying with this definition does not exist, the Cabinet for ***Health and Family Services***[~~Families and Children~~] may publish this list in the publication utilized by the Circuit Court Clerk of the county for publication of other legal notices in the county. A newspaper that is not engaged in the distribution of news of general interest to the public, but that is primarily engaged in the distribution of news of interest to a particular group of citizens, is not a newspaper of general circulation.

Section 631. KRS 405.435 is amended to read as follows:

(1) An employer or labor organization in the Commonwealth of Kentucky shall provide information to the Cabinet for ***Health and Family Services***[~~Families and Children~~] when that employer or labor organization hires an employee who resides or works in the Commonwealth, or rehires or permits the return to work of an employee who has been laid off, furloughed, separated, granted a leave without pay, or terminated from employment, unless the reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission as determined by the secretary of ***health and family services***[~~families and children~~].

(2) The employer shall provide the information within twenty (20) days of the hiring or return to work of the employee. The information shall include:

(a) The employee's name, address, and Social Security number; and

(b) The employer's name, address, and, if the employer has been assigned one, federal and state employer identification numbers.

(3) An employer shall report the required information by submitting a copy of the employee's W-4 form or, at the option of the employer, an equivalent form provided by the Cabinet for ***Health and Family Services***[~~Families and Children~~] as prescribed by administrative regulation promulgated by the Cabinet for ***Health and Family Services***[~~Families and Children~~] in accordance with KRS Chapter 13A.

(4) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall enter all new hire information into the database of the cabinet within five (5) business days.

(5) The Cabinet for ***Health and Family Services***[~~Families and Children~~] may promulgate administrative regulations in accordance with KRS Chapter 13A if the Cabinet for ***Health and Family Services***[~~Families and Children~~] determines exceptions are needed to reduce unnecessary or burdensome reporting or are needed to facilitate cost-effective operation of the cabinet under this section.

(6) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall use the information collected pursuant to this section for the location of noncustodial parents, establishment, modification, and enforcement of child support and any other matter related to paternity or child support.

(7) If the employer fails to report as required by this section, the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall give the employer written notice of the provisions of this section, including the penalty for failure to report.

(8) If the employer has not filed a report within twenty (20) days from the date that the written notice is sent to him, the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall send a second written notice.

(9) If the employer fails to file a W-4 or equivalent form within twenty (20) days from the date that the second written notice is sent, or supplies a false or incomplete report, and the failure is a result of a conspiracy between the employee and the employer to prevent the proper information from being filed within twenty (20) days from the date that the second written notice is sent, the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall send the employer by certified mail, return receipt request, notice of an administrative fine. The fine shall be two hundred fifty dollars ($250) per calendar month per person for any violation occurring after the second notice has been given, and continuing until a W-4 or equivalent form is received by the Cabinet for ***Health and Family Services***[~~Families and Children~~]. No fine shall be imposed for any period of less than one (1) full calendar month.

(10) The employer shall have ten (10) days after receipt of the administrative fine notice to request a hearing before the Cabinet for ***Health and Family Services***[~~Families and Children~~] on whether the administrative fine was properly assessed. If a timely request for a hearing is received, the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall schedule and conduct a hearing in accordance with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

Section 632. KRS 405.463 is amended to read as follows:

The Kentucky Lottery Corporation and the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for ***Health and Family Services***[~~Families and Children~~] on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize.

Section 633. KRS 405.465 is amended to read as follows:

(1) This section shall apply only to those child support, medical support, maintenance, and medical support insurance orders that are established, modified, or enforced by the Cabinet for ***Health and Family Services***[~~Families and Children~~] or those court orders obtained in administering Part D, Title IV of the Federal Social Security Act.

(2) All child support orders and medical support insurance orders being established, modified, or enforced by the Cabinet for ***Health and Family Services***[~~Families and Children~~], or those orders obtained pursuant to the administration of Part D, Title IV of the Federal Social Security Act, shall provide for income withholding which shall begin immediately.

(3) The court shall order either or both parents who are obligated to pay child support, medical support, or maintenance under this section to assign to the Cabinet for ***Health and Family Services***[~~Families and Children~~] that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered by the court.

(4) The order shall be binding upon the employer or any subsequent employer upon the service by certified mail of a copy of the order upon the employer and until further order of the court. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order.

(5) The employer shall notify the cabinet when an employee, for whom a wage withholding is in effect, terminates employment and provide the terminated employee's last known address and the name and address of the terminated employee's new employer, if known.

(6) Any assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(7) No assignment under this section by an employee shall constitute grounds for dismissal of the obligor, refusal to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

Section 634. KRS 405.467 is amended to read as follows:

(1) All support orders issued by the Cabinet for ***Health and Family Services***[~~Families and Children~~], including those issued pursuant to Part D, Title IV of the Federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support and medical support as is necessary to pay the child support obligation, except where one (1) of the parties demonstrates, and the court or administrative order finds that there is good cause not to require immediate income withholding, or a written agreement is reached by both parties which provides for an alternative arrangement.

(2) In any case in which a support order was issued in the state and in which a parent is required to pay court-ordered or administratively determined child support, medical support, maintenance, and medical support insurance, and wage withholding is not in effect, and an arrearage accrues that is equal to the amount of support payment for one (1) month, upon request of the absent parent, request of the custodial parent, or upon administrative determination, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any, without the need for a judicial or administrative hearing.

(3) In any case in which a parent is required either by court order or administrative order to provide medical insurance coverage for the child and the parent has failed to make application to obtain coverage for the child, the secretary shall issue an order for withholding of the employee's share, if any, of premiums for health coverage and to pay the share of premiums to the insurer, without the need for a judicial or administrative hearing.

(4) The cabinet shall advise the obligated parent that a wage withholding has commenced by sending a copy of the order to withhold at the same time that the order is sent to the employer. The only basis for contesting the withholding shall be a mistake of fact or law. If the parent contests the withholding, the cabinet shall give the obligor an opportunity to present his or her case at an administrative hearing conducted in accordance with KRS Chapter 13B and decide if the withholding will continue.

(5) The cabinet shall combine any administrative or judicial wage withholding order, or multiple administrative or judicial orders for child support and medical support into a single wage withholding order when payable through the cabinet to a single family or to multiple family units.

(6) The cabinet shall serve the order to withhold earnings or notice of multiple wage withholding orders specifying wage withholding requirements on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, or the requirement to enroll the child under the health insurance coverage, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages plus interest, and medical insurance coverage may not exceed the limit permitted under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).

(7) If there is more than one (1) notice for child support withholding against a single absent parent, the cabinet shall allocate amounts available for withholding, giving priority to current child support, up to the limits imposed under Section 303(b) of the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the cabinet shall not result in a withholding for one (1) of the support obligations not being implemented. Amounts resulting from wage withholding shall be allocated on a proportionate basis between multiple family units. Any custodial parent adversely affected by the provisions of this subsection shall have standing to challenge any proportionate allocations and, for good cause shown, a District Court, Circuit Court, or family court of competent jurisdiction may set aside the cabinet's proportional allocations

as to the custodial parent.

(8) If the amounts to be withheld preclude collection of the total amount of combined child support and medical support due to the limits of the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be applied first to the current monthly child support obligation amount. Any payment exceeding the current monthly child support obligation shall then be applied by the cabinet to the administratively ordered or judicially ordered medical support obligation.

(9) The employer shall forward to the Cabinet for ***Health and Family Services***~~[Families and Children]~~ that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered.

(10) The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.

(11) Any order to withhold earnings under this section shall have priority as against any attachment, execution, or other assignment, notwithstanding any state statute or administrative regulation to the contrary.

(12) No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

(13) The remedies provided for in this section shall also be available for applicable support orders issued in other states.

(14) Interstate requests for withholding of earnings shall be processed by the cabinet.

Section 635. KRS 405.490 is amended to read as follows:

(1) Any person, including the obligor, who has been served with an order to withhold and deliver the obligor's property shall answer the order within twenty (20) days.

(2) The person in possession of any obligor's property shall withhold it and deliver it to the cabinet in accordance with the secretary's directions; or the obligor may offer a bond which is satisfactory to the cabinet.

(3) The person in possession of obligor's property shall have no liability or further responsibility after fulfilling the duties under this section.

(4) The obligor may dispute the amount of delinquent support by requesting a dispute hearing with twenty (20) days.

(5) If the obligor does not request a hearing, acknowledgment of the obligation is presumed and the secretary may apply the withheld property to the delinquent child support obligation.

(6) If a hearing is requested, when property or a bond is released to the secretary pursuant to an order to withhold and deliver property, the secretary shall hold the property or bond, pending determination of the obligor's liability by a hearing officer, pursuant to KRS 405.450.

(7) Upon a decision adverse to the Cabinet for ***Health and Family Services***~~[Families and Children]~~ by a hearing officer, of the Circuit Court on appeal, the cabinet shall return the property together with interest at the legal rate for judgments.

Section 636. KRS 406.021 is amended to read as follows:

(1) Paternity may be determined upon the complaint of the mother, putative father, child, person, or agency substantially contributing to the support of the child. The action shall be brought by the county attorney or by the Cabinet for ***Health and Family Services***~~[Families and Children]~~ or its designee upon the request of complainant authorized by this section.

(2) Paternity may be determined by the District Court when the mother and father of the child, either:

(a) Submit affidavits in which the mother states the name and Social Security number of the child's father and the father admits paternity of the child; or

(b) Give testimony before the District Court in which the mother states the name and Social Security number of the child's father and the father admits paternity of the child.

(3) If paternity has been determined or has been acknowledged according to the laws of this state, the liabilities of the father may be enforced in the same or other proceedings by the mother, child, person, or agency substantially contributing to the cost of pregnancy, confinement, education, necessary support, or funeral expenses. Bills for testing, pregnancy, and childbirth without requiring third party foundation testimony shall be regarded as prima facie evidence of the amount incurred. An action to enforce the liabilities shall be brought by the county attorney upon the request of such complainant authorized by this section. An action to enforce the liabilities of the cost of pregnancy, birthing costs, child support, and medical support shall be brought by the county attorney or by the Cabinet for ***Health and Family Services***~~[Families and Children]~~ or its designee.

(4) Voluntary acknowledgment of paternity pursuant to KRS 213.046 shall create a rebuttable presumption of paternity.

(5) Upon a showing of service of process on the defendant and if the defendant has made no pleading to the court or has not moved to enter evidence pursuant to KRS 406.091, the court shall order paternity to be established by default.

Section 637. KRS 406.025 is amended to read as follows:

(1) Upon completion of a signed, notarized, voluntary acknowledgment-of-paternity affidavit by the mother and alleged father, obtained through the hospital-based paternity program, and submitted to the state registrar of vital statistics, paternity shall be rebuttably presumed for the earlier of sixty (60) days or the date of an administrative or judicial proceeding relating to

the child, including a proceeding to establish a child support order.

(2) Upon completion of a signed, notarized, voluntary acknowledgment-of-paternity affidavit by the mother and alleged father obtained outside of the hospital and submitted to the state registrar of vital statistics, paternity shall be rebuttably presumed for the earlier of sixty (60) days or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a child support order following the date of signatures on the notarized affidavit.

(3) Pending an administrative or judicial determination of parentage, or upon a signed, notarized, voluntary acknowledgment-of-paternity form having been transmitted by the local registrar and received by the[~~ Office of~~] Vital Statistics ***Branch***, a temporary support order shall be issued upon motion of any party if paternity is indicated by genetic testing or other clear and convincing evidence.

(4) The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(5) The court shall, within fourteen (14) days from the filing of the motion, order an amount of temporary child support based upon the child support guidelines as provided by KRS 403.212. The ordered child support shall be retroactive to the date of the filing of the motion to move the court to enter an order for temporary child support without written or oral notice to the adverse party. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by KRS 403.160(2)(a). Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

(6) Unless good cause is shown, court or administratively ordered child support shall continue until final judicial or administrative determination of paternity.

Section 638. KRS 406.091 is amended to read as follows:

(1) An unchallenged acknowledgment of paternity shall be ratified under KRS Chapter 213 without the requirement for judicial or administrative proceedings. If a genetic test is required, the court shall direct that inherited characteristics be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret results and to report to the court.

(2) In a contested paternity case, the child and all other parties shall submit to genetic testing upon a request of any such party which shall be supported by a sworn statement of the party, except for good cause.

(3) Genetic test results are admissible and shall be weighed along with other evidence of the alleged father's paternity.

(4) Any objection to genetic testing results shall be made in writing to the court within twenty (20) days of receipt of genetic test results. If the results of genetic tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or independent laboratory at the expense of the party requesting additional testing. If no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

(5) Verified documentation of the chain of custody in transmitting the blood specimens is competent evidence to establish the chain of custody.

(6) A verified expert's report shall be admitted at trial unless the expert is called by a party or the court as a witness to testify to his findings.

(7) Except where the Cabinet for ***Health and Family Services***[~~Families and Children~~] administratively orders genetic testing, all costs associated with genetic testing shall be paid by the parties in proportions determined by the court.

(8) When administratively ordered, the cabinet shall pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established. The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.

Section 639. KRS 407.440 is amended to read as follows:

If the secretary for ***health and family services***[~~families and children~~] or his authorized representative is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may perfect an appeal to the proper appellate court if the support order was issued by a court of this state, or if the support order was issued in another state, cause the appeal to be taken in the other state. In either case, expenses of appeal may be paid on his order from funds appropriated for his office.

Section 640. KRS 407.5101 is amended to read as follows:

As used in KRS 407.5101 to 407.5902:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent;

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state;

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former

spouse, including an unsatisfied obligation to provide support;

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six (6) months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six (6) month or other period;

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state;

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by KRS 403.212, to withhold support from the income of the obligor;

(7) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act;

(8) "Initiating tribunal" means the authorized tribunal in an initiating state;

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage;

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage;

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law;

(12) "Obligee" means:

  (a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

  (b) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

  (c) An individual seeking a judgment determining parentage of the individual's child;

(13) "Obligor" means an individual, or the estate of a decedent:

  (a) Who or is alleged to owe a duty of support;

  (b) Who is alleged but has not been adjudicated to be a parent of a child; or

  (c) Who is liable under a support order;

(14) "Register" means to file a support order or judgment determining parentage with the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(15) "Registering tribunal" means a tribunal in which a support order is registered;

(16) "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this chapter or a law or procedure substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act;

(17) "Responding tribunal" means the authorized tribunal in a responding state;

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor;

(19) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes:

  (a) An Indian tribe; and

  (b) A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act;

(20) "Support enforcement agency" means a public official or agency authorized to seek:

  (a) Enforcement of support orders or laws relating to the duty of support;

  (b) Establishment or modification of child support;

  (c) Determination of parentage; or

  (d) To locate obligors or their assets;

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief; and

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Section 641. KRS 407.5102 is amended to read as follows:

The Circuit Court, District Court, and family courts shall be the state tribunals for judicial proceedings, and the Cabinet for ***Health and Family Services***[~~Families and Children~~] and the Division of Child Support shall be the state tribunals for administrative proceedings.

Section 642. KRS 407.5201 is amended to read as follows:

In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) The individual is personally served with summons, or notice within this state;

(2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive pleading having the effect of waiving any contest to personal jurisdiction;

(3) The individual resided with the child in this state;

(4) The individual resided in this state and provided prenatal expenses or support for the child;

(5) The child resides in this state as a result of the acts or directives of the individual;

(6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(7) The individual asserted parentage in the putative father registry maintained in this state by the Cabinet for ***Health and Family Services***[~~Families and Children~~]; or

(8) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Section 643. KRS 407.5308 is amended to read as follows:

If the Cabinet for ***Health and Family Services***[~~Families and Children~~] determines that a contracting official is neglecting or refusing to provide services to an individual, the Cabinet for ***Health and Family Services***[~~Families and Children~~] may order that official to perform his duties under KRS 407.5101 to 407.5902 or may provide those services directly to the individual.

Section 644. KRS 407.5310 is amended to read as follows:

(1) The Cabinet for ***Health and Family Services***[~~Families and Children~~] is the state information agency under KRS 407.5101 to 407.5902.

(2) The state information agency shall:

- (a) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under KRS 407.5101 to 407.5902 and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;
- (b) Maintain a register of tribunals and support enforcement agencies received from other states;
- (c) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under KRS 407.5101 to 407.5902 received from an initiating tribunal or the state information agency of the initiating state; and
- (d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and Social Security.

Section 645. KRS 407.5602 is amended to read as follows:

(1) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the Cabinet for ***Health and Family Services***[~~Families and Children~~] or the appropriate tribunal within this state wherein the obligor resides, works, or owns property:

- (a) A letter of transmittal to the tribunal requesting registration and enforcement;
- (b) Two (2) copies, including one (1) certified copy, of all orders to be registered, including any modification of an order;
- (c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;
- (d) The name of the obligor and, if known;
  1. The obligor's address and Social Security number;
  2. The name and address of the obligor's employer and any other source of income of the obligor; and
  3. A description and the location of property of the obligor in this state not exempt from execution; and
- (e) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one (1) copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be

filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.

Section 646. KRS 411.095 is amended to read as follows:

(1) An adult or emancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed, or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, in violation of the provisions of KRS Chapters 512 and 514, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250).

(2) The custodial parents or legal guardian having custody of an unemancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed, or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, which would be a public offense, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250). For purposes of this subsection, liability shall not be imposed upon any governmental entity, private agency, or foster parents assigned responsibility for the minor child pursuant to a court order or action of the Cabinet for ***Health and Family Services***[~~Families and Children~~], or any agency thereunder.

(3) For the purposes of this section, "owner" shall include any agent or employee of the owner.

(4) A conviction of an offense under KRS Chapters 512 or 514 is not a condition precedent to the maintenance of a civil action under this section.

(5) Civil liability under this section shall not be limited by any other law that limits liability of parents of minor children.

(6) An action for recovery of damages, or penalty, or both, and costs under this section may be brought in any court of competent jurisdiction, including the small claims division of District Court, if the total amount sought does not exceed the jurisdictional limit of the respective court.

(7) The fact that an owner has a right to bring an action against any individual as provided in this section shall not limit the right of the owner to demand, in writing, that a person who is liable under this section remit the amount of the claim prior to the commencement of any legal action.

(8) Judgments, but not claims, arising under this section may be assigned.

(9) In addition to any civil damages or penalties, or both, which may be recovered under this section, a judgment for recovery shall also include court costs.

(10) Civil claims under this section shall apply to those claims which arise after July 13, 1990.

Section 647. KRS 411.148 is amended to read as follows:

(1) No physician licensed under KRS Chapter 311, registered or practical nurse licensed under KRS Chapter 314, person certified as an emergency medical technician by the Kentucky Cabinet for Health ***and Family*** Services, person certified by the American Heart Association or the American Red Cross to perform cardiopulmonary resuscitation, or employee of any board of education established pursuant to the provision of KRS 160.160, who has completed a course in first aid and who maintains current certification therein in accordance with the standards set forth by the American Red Cross shall be liable in civil damages for administering emergency care or treatment at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment excluding house calls, for acts performed at the scene of such emergency, unless such acts constitute willful or wanton misconduct.

(2) Nothing in this section applies to the administering of such care or treatment where the same is rendered for remuneration or with the expectation of remuneration.

(3) The administering of emergency care or treatment at the scene of an emergency by employees of a board of education shall not be considered to be rendered for remuneration or with the expectation of remuneration because such personnel perform such care as part of their regular professional or work responsibilities for which they receive their regular salaries from the school board which is their employer.

Section 648. KRS 431.076 is amended to read as follows:

(1) A person who has been charged with a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed with prejudice, and not in exchange for a guilty plea to another offense, may make a motion, in the District or Circuit Court in which the charges were filed, to expunge all records including, but not limited to, arrest records, fingerprints, photographs, index references, or other data, whether in documentary or electronic form, relating to the arrest, charge, or other matters arising out of the arrest or charge.

(2) The expungement motion shall be filed no sooner than sixty (60) days following the order of acquittal or dismissal by the court.

(3) Following the filing of the motion, the court may set a date for a hearing. If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement motion. In addition, if the criminal charge relates to the abuse or neglect of a child, the court shall also notify the Office of General Counsel of the

Cabinet for ***Health and Family Services***[~~Families and Children~~] of an opportunity for a response to the expungement motion. The counsel for the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall respond to the expungement motion, within twenty (20) days of receipt of the notice, which period of time shall not be extended by the court, if the Cabinet for ***Health and Family Services***[~~Families and Children~~] has custody of records reflecting that the person charged with the criminal offense has been determined by the cabinet or by a court under KRS Chapter 620 to be a substantiated perpetrator of child abuse or neglect. If the cabinet fails to respond to the expungement motion or if the cabinet fails to prevail, the order of expungement shall extend to the cabinet's records. If the cabinet prevails, the order of expungement shall not extend to the cabinet's records.

(4) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the motion and order the sealing of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records. The court shall order the sealing on a form provided by the Administrative Office of the Courts. Every agency, with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to seal records, shall certify to the court within sixty (60) days of the entry of the expungement order, that the required sealing action has been completed. All orders enforcing the expungement procedure shall also be sealed.

(5) After the expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

(6) Inspection of the expunged records may thereafter be permitted by the court only upon a motion by the person who is the subject of the records and only to those persons named in the motion.

(7) This section shall be retroactive.

Section 649. KRS 431.100 is amended to read as follows:

(1) When a money judgment is entered against a defendant in a criminal proceeding and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the Commonwealth of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. Under no circumstances shall the general fund be used to reimburse court costs or pay for judgment.

(2) Except as provided in this section, all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.

(3) Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the State Treasury, which shall not lapse, and which, effective July 1, 1987, shall be used solely by the Cabinet for Health ***and Family*** Services for the provision of treatment and counseling programs for alcoholics.

(4) Sixty percent (60%) of fines for violation of KRS 512.070 shall, when collected, be transferred by the circuit clerk to the county treasurer for inclusion in the general fund of the county in which the offense occurs and forty percent (40%) shall be transferred to the agency that issued the citation.

(5) The court shall not order a fine, forfeiture, service fee, cost, or any other money due the Commonwealth or any other public officer paid to any person or organization other than one specifically required by the Kentucky Revised Statutes, nor shall a court suspend payment of a fine, forfeiture, service fee, cost, or any other money due the Commonwealth if the defendant makes a payment to another person or organization, unless so authorized by the court and the Kentucky Revised Statutes.

(6) When, as authorized in the Kentucky Revised Statutes, a court does order a fine, forfeiture, service fee, cost, or any other monetary penalty to be paid to a person other than the circuit clerk, notice of this order will be served on the defendant and a copy of the order will be delivered to the person. Such an order constitutes a judgment of the court and carries with it all lawful means of enforcement and collection.

Section 650. KRS 431.600 is amended to read as follows:

(1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for ***Health and Family Services***[~~Families and Children~~]. Cabinet for ***Health and Family Services***[~~Families and Children~~] social workers shall be available to assist in all investigations under this section but shall be lead investigators only in those cases of reported or suspected sexual abuse of a child in which a person exercising custodial control or supervision, as defined in KRS 600.020, is the alleged or suspected perpetrator of the abuse. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse and promulgated by the Attorney General as administrative regulations pursuant to KRS Chapter 13A.

(2) Local protocols shall be developed in each county or group of contiguous counties by the agencies and persons specified in subsection (1) of this section specifying how the state protocols shall be followed within the county or group of contiguous

counties. These protocols shall be approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse.

(3) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.

(4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing and familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.

(5) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim.

(6) Commonwealth's attorneys and county attorneys and the Cabinet for ***Health and Family Services***[~~Families and Children~~] and other team members shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.

(7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the child victim.

(8) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with a child shall be conducted at a children's advocacy center.

Section 651. KRS 441.047 is amended to read as follows:

(1) Whenever a prisoner confined in the county jail is in need of psychiatric or similar evaluation, treatment, or services, it shall be the responsibility of the Commonwealth to provide such evaluation, treatment, or services at the expense of the Commonwealth at the nearest state-operated or state-supported facility suitable for the provision of the required evaluation, treatment, or services at no cost to the county.

(2) Whenever a criminal defendant is in need of psychiatric, sociological, or similar evaluation in connection with the criminal proceedings in which he is a defendant it shall be the responsibility of the Commonwealth to provide the evaluation at the nearest state-operated or state-supported facility suitable for the provision of the required evaluation at no cost to the county.

(3) In the event that no suitable state-operated or state-supported facility is located within a reasonable distance, then the evaluation may be made at a suitable local facility or at the jail. In such instances a request must first be made to the Cabinet for Health ***and Family*** Services to provide the evaluation, treatment, or service unless the situation is an emergency requiring immediate attention. If the cabinet cannot provide the service or if the situation is an emergency, then local resources may be utilized.

(4) In the event that local resources are utilized in an emergency situation, or when the Cabinet for Health ***and Family*** Services is unable to provide the evaluation, treatment, or service, then the reasonable cost of providing such service, treatment, or evaluation shall be paid from the State Treasury in the same manner as other medical expenses of indigent prisoners confined in the county jail.

(5) The Cabinet for Health ***and Family*** Services shall administer the provisions of this section and shall issue such administrative regulations as necessary to carry out the provisions of this section.

Section 652. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Health ***and Family*** Services. A curriculum advisory committee composed of jailers, their representatives, and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the Governmental Services Center at Kentucky State University, by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.

(2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he shall not receive the expense allowance specified in subsection (2) of this section until he successfully completes the required training.

Section 653. KRS 504.060 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the Department of Corrections;

(2) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary of the Cabinet for Health ***and Family*** Services for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(3) "Foreseeable future" means not more than three hundred sixty (360) days;

(4) "Incompetency to stand trial" means, as a result of mental condition, lack of capacity to appreciate the nature and consequences of the proceedings against one or to participate rationally in one's own defense;

(5) "Insanity" means, as a result of mental condition, lack of substantial capacity either to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law;

(6) "Mental illness" means substantially impaired capacity to use self-control, judgment, or discretion in the conduct of one's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;

(7) "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period and is a condition which may exist concurrently with mental illness or insanity;

(8) "Psychiatrist" means a physician licensed pursuant to KRS Chapter 311 who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(9) "Psychologist" means a person licensed at the doctoral level pursuant to KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to perform examinations;

(10) "Treatment" means medication or counseling, therapy, psychotherapy, and other professional services provided by or at the direction of psychologists or psychiatrists. "Treatment" shall not include electroshock therapy or psychosurgery; and

(11) "Treatment facility" means an institution or part thereof, approved by the Cabinet for Health ***and Family*** Services, which provides evaluation, care, and treatment for insane, mentally ill, or mentally retarded persons on an inpatient or outpatient basis, or both.

Section 654. KRS 504.080 is amended to read as follows:

(1) A court may commit a defendant to a treatment facility or forensic psychiatric facility for up to thirty (30) days so that a psychologist or psychiatrist can examine, treat, and report on the defendant's mental condition, except that if the defendant is charged with a felony and it is determined that inpatient examination or treatment is required, the defendant shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for Health ***and Family*** Services or the secretary's designee determines that the defendant shall be examined and treated in another Cabinet for Health ***and Family*** Services facility.

(2) Reports on a defendant's mental condition prepared under this chapter shall be filed within ten (10) days of the examination.

(3) The defendant shall be present at any hearing on his mental condition unless he waives his right to be present.

(4) The examining psychologist or psychiatrist shall appear at any hearing on defendant's mental condition unless the defendant waives his right to have him appear.

(5) A psychologist or psychiatrist retained by the defendant shall be permitted to participate in any examination under this chapter.

(6) The Cabinet for Health ***and Family*** Services, if the cabinet or its agent or employee does not provide the examination, shall pay a reasonable fee to any psychologist or psychiatrist ordered to examine, treat, and report on a defendant's mental condition.

(7) The termination of criminal proceedings under this chapter is not a bar to the institution of civil commitment proceedings.

Section 655. KRS 504.110 is amended to read as follows:

(1) If the court finds the defendant incompetent to stand trial but there is a substantial probability he will attain competency in the foreseeable future, it shall commit the defendant to a treatment facility or a forensic psychiatric facility and order him to submit to treatment for sixty (60) days or until the psychologist or psychiatrist treating him finds him competent, whichever occurs first, except that if the defendant is charged with a felony, he shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for Health ***and Family*** Services or the secretary's designee determines that the defendant shall be treated in another Cabinet for Health ***and Family*** Services facility. Within ten (10) days of that time, the court shall hold another hearing to determine whether or not the defendant is competent to stand trial.

(2) If the court finds the defendant incompetent to stand trial but there is no substantial probability he will attain competency in the foreseeable future, it shall conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B.

(3) If the court finds the defendant competent to stand trial, the court shall continue the proceedings against the defendant.

Section 656. KRS 510.320 is amended to read as follows:

(1) For purposes of this section, "human immunodeficiency virus test" means a test of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection.

(2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.

(3) When a defendant has been convicted of any offense in subsection (2) of this section, other provisions of law to the contrary notwithstanding, the sentencing court, regardless of any prior human immunodeficiency virus test, shall order the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for Health ***and Family*** Services.

(4) (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.

(b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for Health ***and Family*** Services to the victim, or the parent or guardian of a victim who is a minor or is mentally retarded or mentally incapacitated, the defendant, the court issuing the order for testing, and to any other agency as directed pursuant to KRS Chapter 214.

(c) The Cabinet for Health ***and Family*** Services shall immediately provide to the victim the results of any human immunodeficiency virus test conducted under this section.

(d) In addition, the Cabinet for Health ***and Family*** Services shall provide to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this section which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in a state penitentiary or correctional institution or county jail.

(5) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Cabinet for Health ***and Family*** Services shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health-care and support services.

(6) The cost of testing under this section shall be paid by the defendant tested, unless the court has determined the defendant to be indigent.

(7) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test.

Section 657. KRS 529.090 is amended to read as follows:

(1) Any person convicted of prostitution or procuring another to commit prostitution under the provisions of KRS 529.020 shall be required to undergo screening for human immunodeficiency virus infection under direction of the Cabinet for Health ***and Family*** Services and, if infected, shall submit to treatment and counseling as a condition of release from probation, community control, or incarceration. Notwithstanding the provisions of KRS 214.420, the results of any test conducted pursuant to this subsection shall be made available by the Cabinet for Health ***and Family*** Services to medical personnel, appropriate state agencies, or courts of appropriate jurisdiction to enforce the provisions of this chapter.

(2) Any person who commits prostitution and who, prior to the commission of the crime, had tested positive for a sexually transmitted disease and knew or had been informed that he had tested positive for a sexually transmitted disease pursuant to KRS 214.410 and that he could possibly communicate such disease to another person through sexual activity is guilty of a Class A misdemeanor. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(3) Any person who commits, offers, or agrees to commit prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human

immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(4) Any person convicted of procuring another to commit prostitution in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony.

Section 658. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere;

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and

(l) Submit to periodic testing for the use of controlled substances or alcohol, if the defendant's record indicates a controlled substance or alcohol problem, and to pay a reasonable fee, as determined by the court, which fee shall not exceed the actual cost of the test and analysis and shall be paid directly to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis, as specified by written order of the court, performed under this subsection. For good cause shown, the testing fee may be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health ***and Family*** Services, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then-prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(b) The circuit clerk shall assess an additional fee of five percent (5%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk or office personnel salaries, or combination thereof;

(c) When a defendant fails to make restitution ordered to be paid through the circuit clerk or a court-authorized program run by the county attorney or the Commonwealth's attorney, the circuit clerk or court-authorized program shall notify the court; and

(d) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) When requiring fees for controlled substances or alcohol tests, or other fees and payments authorized by this section or other statute, except restitution, to be paid by the defendant, the court shall not order the payments to be paid through the circuit clerk.

(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

Section 659. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;

(b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;

(d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

(e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

(f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

(g) Abandons or exploits the child; or

(h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child; or

(i) Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months;

(2) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:

(a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;

(b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;

(c) The parent has sexually abused the child and has refused available treatment;

(d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or

(e) The parent has caused the child serious physical injury;

(3) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her

parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;

(4) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

(5) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(6) "Cabinet" means the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(7) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(8) "Child" means any person who has not reached his eighteenth birthday, unless otherwise provided;

(9) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(10) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(11) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(12) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for ***Health and Family Services***[~~Families and Children~~], Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;

(13) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(14) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(15) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(16) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(17) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(18) "Department" means the Department for Community Based Services;

(19) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(20) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted environment for his or her own or the community's protection;

(21) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;

(22) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(23) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(24) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and

behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;

(25) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(26) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(27) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(28) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150 three (3) or more times during a one (1) year period;

(29) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(30) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(31) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(32) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(33) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which a child accused of a public offense may be detained for a period not to exceed twenty-four (24) hours, exclusive of weekends and holidays prior to a detention hearing as provided for in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff;

(34) "Juvenile holding facility" means a physically secure facility, approved by the Department of Juvenile Justice, which is an entirely separate portion or wing of a building containing an adult jail, which provides total sight and sound separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile facility staff to provide twenty-four (24) hours per day supervision;

(35) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence;

(36) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(37) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

(38) "Needs of the child" means necessary food, clothing, health, shelter, and education;

(39) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(40) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;

(41) "Parent" means the biological or adoptive mother or father of a child;

(42) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(43) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(44) "Physical injury" means substantial physical pain or any impairment of physical condition;

(45) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;

(46) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(47) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or

(g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;

(48) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(49) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(50) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(51) "Secretary" means the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~];

(52) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;

(53) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(54) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(55) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(56) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(57) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(58) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(59) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(60) "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:

(a) Who was brought before the court and made subject to the order;

(b) Whose future conduct was regulated by the order;

(c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and

(d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States.

(61) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(62) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and

(63) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 660. KRS 600.040 is amended to read as follows:

When KRS 605.090, 605.100, 605.110, 605.115, 610.110, or any other section of this code refer jointly to the operation of a program or service by both the Department of Juvenile Justice and the Cabinet for ***Health and Family Services***~~[Families and Children]~~, the following divisions are intended:

(1) Facilities, programs, and services relating to juveniles under KRS Chapter 635 or 640, or under KRS Chapter 645 as relates to a child who is mentally ill and who also comes within the purview of KRS Chapter 635 or 640, shall be the responsibility of the Department of Juvenile Justice.

(2) Facilities, programs, and services relating to juveniles under other chapters of the code, including KRS Chapter 630, shall be the responsibility of the Cabinet for ***Health and Family Services***~~[Families and Children]~~.

Section 661. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to or in the custody of the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available, at a cost not to exceed the Medicaid reimbursement rate, to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for ***Health and Family Services***~~[Families and Children]~~, residential, day treatment, clinical, and group home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for ***Health and Family Services***~~[Families and Children]~~ and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for ***Health and Family Services***~~[Families and Children]~~, Department for Community Based Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children. The biennial plan shall include strategies to assure that teacher preparation programs include content related to working with state agency children and that adequate professional development opportunities for better meeting the needs of these students are available for teachers and schools.

(b) Teachers and other staff shall be hired on contract through a local school district or if a local school district is not willing to participate, teachers may be hired by the Kentucky Educational Collaborative for State Agency Children or a contract may be entered into with a private provider of educational services. All certified educational staff hired by the Kentucky Educational Collaborative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;
2. A per-pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children;
3. A per-pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;
4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;
5. The funding for school services for state agency children authorized by KRS 158.135; and
6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:
   a. Define the financial responsibility of each state and local agency for providing services to state agency children;
   b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for ***Health and Family Services***[~~Families and Children~~].

(e) When the placement of a state agency child is changed so that the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the cabinet or the Department of Juvenile Justice. The cabinet or the Department of Juvenile Justice shall, within two (2) days of enrolling a state agency child in a new school or educational facility, present the educational passport to the receiving school or educational facility.

(f) The commissioner of Juvenile Justice and the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~] and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 662. KRS 605.115 is amended to read as follows:

The commissioner of the Department of Juvenile Justice and the secretary of the Cabinet for ***Health and Family Services***[~~Families and Children~~], with the cooperation of the Kentucky Board of Education and the commissioner of education, shall implement policies to assure that local school districts providing a funding match shall have direct access to Medicaid funding as Medicaid providers for the provision of health-related services to eligible children with disabilities under the age of twenty-one (21) years of age. They shall develop policies and procedures so the Department of Education can transfer the local school districts' matching funds to the Department for Medicaid Services. They shall also review state and federal statutes and regulations to determine the eligibility of local school districts to receive Medicaid reimbursement for health-related services identified on a child's individual education plan.

Section 663. KRS 610.330 is amended to read as follows:

(1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635 (with regard to status offenses, misdemeanors, or violations only), or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his juvenile court record, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult. He shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court, a representative of the Department of Juvenile Justice or the cabinet, or any other interested person may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his unconditional release from commitment to the Department of Juvenile Justice or the Cabinet for ***Health and Family Services***[~~Families and Children~~] or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.

(2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.

(3) The court shall order sealed all records in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or private elementary and secondary school records, if at the hearing the court finds that:

(a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the Department of Juvenile Justice, the cabinet, or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1)(a); and

(b) No proceeding concerning a felony and no petition under KRS 610.010(1)(a) is pending or being instituted against him.

(4) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.

(5) Copies of the order shall be sent to each agency or official named therein.

(6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Section 664. KRS 615.040 is amended to read as follows:

The following provisions apply to the compact described in KRS 615.030:

(1) The following definitions apply to KRS 615.030:

(a) As used in paragraph (a) of Article V of the interstate compact on the placement of children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the Cabinet for ***Health and Family Services***[~~Families and Children~~].

(b) The "appropriate public authorities" as used in Article III of the interstate compact on the placement of children shall, with reference to this state, mean the Cabinet for ***Health and Family Services***[~~Families and Children~~] and said cabinet shall receive and act with reference to notices required by said Article III.

(c) As used in Article VII of the interstate compact on the placement of children, the term "executive head" means the Governor. The Governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.

(2) Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children:

(a) Shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of KRS 405.020 shall apply.

(b) The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in another party state pursuant to paragraph (b) of Article V of the interstate compact on the placement of children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the secretary of the Finance and Administration Cabinet in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

(3) Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article VI of the interstate compact on the placement of children and shall retain jurisdiction as provided in Article V of KRS 615.030 thereof.

(4) No person or institution shall bring or send, or cause to be brought or sent, a dependent child into this state from another state for the purpose of placing him in a family home, either with or without indenture or for adoption, without first filing a ten thousand dollar ($10,000) bond with the county judge/executive of the county in which the child is to be placed.

(5) The bond shall be conditioned as follows:

(a) That they will not bring or send, or cause to be brought or sent, into this state any child that is incorrigible or of unsound mind or body or who has any contagious or incurable disease;

(b) That they will immediately, upon placing the child, report to the department the name and age of the child, and the name and residence of the person with whom he is placed;

(c) That if the child becomes a public charge before reaching his majority, they will, within thirty (30) days after receiving written notice of such fact from the department, remove the child from the state;

(d) That if the child is convicted of a crime or misdemeanor and is imprisoned, within five (5) years of the time of his arrival, they will remove the child from the state immediately upon his release;

(e) That they will place each dependent child by written contract with a person who will furnish the child a proper home, and will make the person receiving the child responsible for its proper care, education, and training;

(f) That they will properly supervise the care and training of the child, and visit each child at least once a year;

(g) That they will make such reports to the department as the department requires.

(6) The provisions of KRS 615.030 shall not apply to a parent, stepparent, grandparent, adult brother or sister, or adult uncle or aunt going to any other state or country and bringing a child into this state for the purpose of giving it a home in his own family, and may be waived by the department for any child brought into the state under the supervision of the division or licensed child-caring or child-placing institution or agency by written agreement with the responsible agency of the other state or country, or under special circumstances agreed to in writing by the cabinet and the persons wishing to import a child.

(7) The provisions of subsections (4) and (5) of this section shall not apply to placements made pursuant to the interstate compact on the placement of children.

Section 665. KRS 620.040 is amended to read as follows:

(1) (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall immediately notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action that has been taken on the investigation.

(d) If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall immediately notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.

(2) (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of reports made under this subsection.

(3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall immediately notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse of a child.

(4) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(5) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be requested from, and may be issued by, the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.

(b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

(6) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.

(7) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.

(b) Membership of the multidisciplinary team shall include, but shall not be limited to, social service workers employed by the Cabinet for ***Health and Family Services***[~~Families and Children~~] and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.

(c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.

(d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.

(e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.

(f) Multidisciplinary team members and anyone invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.

(g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.

(h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

(i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.

Section 666. KRS 620.100 is amended to read as follows:

(1) If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:

(a) The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for ***Health and Family Services***[~~Families and Children~~], of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars ($500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250);

(b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision if the parent is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for ***Health and Family Services***[~~Families and Children~~], of the order appointing counsel. The parent's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars ($500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250);

(c) The court may, in the interest of justice, appoint separate counsel for a nonparent who exercises custodial control or supervision of the child, if the person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for ***Health and Family Services***[~~Families and Children~~], of the order appointing counsel. Counsel for the person shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars ($500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250); and

(d) The court may, in the interest of justice, appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550. The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet, of the order appointing the court-appointed special advocate volunteer.

(2) If the court determines that further proceedings are required, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal.

(3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect, and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.

(4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.

Section 667. KRS 620.145 is amended to read as follows:

(1) Within sixty (60) days of the commitment date of a child due to abuse, neglect, or dependency, the Cabinet for ***Health and Family Services***[~~Families and Children~~] shall provide the court with jurisdiction an assessment of the child to determine:

  (a) The child's current and historical educational functioning;

  (b) The child's emotional and behavioral functioning; and

  (c) The extent to which the child's life experiences and circumstances of commitment have created a disabling condition requiring special educational programming or other services to provide the child an appropriate public education.

(2) Upon discerning of an emotional, behavioral, or other disabling condition with negative impact upon a child's educational experience, the Cabinet for ***Health and Family Services***[~~Families and Children~~] as guardian of the child shall ensure that whatever services necessary are obtained to allow the child the benefit of a free, appropriate public education.

(3) Services required to allow the child a free, appropriate public education shall be limited to those required under Section 504 of Pub. L. 93-112, Pub. L. 94-142, or other federal statutes affecting children with emotional or behavioral disabilities.

(4) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall include activities undertaken to ensure a child committed to the Cabinet for ***Health and Family Services***[~~Families and Children~~] receives adequate public education in the six (6) month case progress report required by KRS 620.240.

(5) Any child removed from his home due to abuse, neglect, or dependency and placed in the least restrictive appropriate placement available shall, for the purposes of acquiring an appropriate public education, be considered a resident of the school district where the placement occurs.

(6) The Cabinet for ***Health and Family Services***[~~Families and Children~~] shall provide a copy of the assessment required by subsection (1) of this section to the foster parent, or other agency or entity providing residential care to a committed child, within five (5) days of filing the assessment with the court.

Section 668. KRS 625.025 is amended to read as follows:

In the case of a child who has become a ward of the Cabinet for ***Health and Family Services***[~~Families and Children~~] as a result of a termination of parental rights judgment entered against the child's parents, and who remains a ward of the cabinet upon attainment of his or her eighteenth birthday, the cabinet, in its discretion, upon request of the ward, may extend its wardship to age twenty-one (21) for the purpose of the child's participating in state or federal educational programs or to assist the child in establishing independent living arrangements.

Section 669. KRS 625.041 is amended to read as follows:

(1) The parties to an action for voluntary termination of parental rights shall be the parent seeking termination, whose presence is not required if represented by counsel for the parent when an appearance-waiver and consent-to-adopt form is filed with the court, but the court shall appoint a guardian ad litem to represent the best interest of the child.

(2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five hundred dollars ($500), to be paid by the petitioner, except if the Cabinet for ***Health and Family Services***[~~Families and Children~~] receives custody of the child, the guardian ad litem shall be paid by the Finance and Administration Cabinet.

(3) The parent may sign an appearance-waiver and consent-to-adopt form when the parent chooses not to attend a voluntary termination of parental rights proceedings. This form, prescribed by the Administrative Office of the Courts, shall:

  (a) Contain a statement of acknowledgment and agreement, regarding the appearance at the proceeding, signed by the parent, counsel for the parent, and the cabinet. If the parent is a minor, the form shall also be signed by the guardian of the minor parent;

  (b) Contain the parent's notarized signature;

  (c) Contain any address to which the parent requests the final judgment be served.

(4) If a joint petition is filed, counsel shall be designated as attorney for both parties.

Section 670. KRS 625.043 is amended to read as follows:

(1) If the Circuit Court determines that parental rights are to be voluntarily terminated in accordance with the provisions of this chapter, it shall make an order terminating all parental rights and obligations of the parent and releasing the child from all legal obligations to the parent and vesting care and custody of the child in the person, agency, or cabinet the court believes is best qualified to receive custody.

(2) Upon consent by the Cabinet for ***Health and Family Services***~~[Families and Children]~~, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is not excepted by KRS 199.470(4) or (5), a grant of permanent custody shall be made only if the proposed custodian has received the written approval of the secretary or the secretary's designee for the child's placement.

Section 671. KRS 625.100 is amended to read as follows:

(1) If the Circuit Court determines that parental rights are to be terminated involuntarily in accordance with the provisions of this chapter, it shall enter an order that the termination of parental rights and the transfer of custody are in the best interest of the child, and that each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter. The order shall terminate all parental rights and obligations of such parent and release the child from all legal obligations to such parent and vest care and custody of the child in such person, agency, or cabinet as the court believes best qualified.

(2) Upon consent by the Cabinet for ***Health and Family Services***~~[Families and Children]~~, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person, if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is unrelated to the child, a grant of custody shall be made only with the written approval of the secretary or his designee.

Section 672. KRS 635.520 is amended to read as follows:

(1) The Department of Juvenile Justice shall have the sole authority and responsibility for establishing the design of the juvenile sexual offender treatment program but shall consult with the Administrative Office of the Courts and the Cabinet for ***Health and Family Services***~~[Families and Children]~~.

(2) The Department of Juvenile Justice may enter into agreements with public or private agencies in order to implement and operate the juvenile sexual offender treatment program.

Section 673. KRS 640.090 is amended to read as follows:

Upon the determination that a person is a youthful offender, the Cabinet for ***Health and Family Services***~~[Families and Children]~~, the Department of Juvenile Justice, and all other public agencies possessing records relating to the youthful offender shall, upon request, provide copies of the records to the Kentucky Parole Board and to the Department of Corrections. No record relating to the child, except records maintained by the youthful offender's defense attorney or the Department of Public Advocacy, if he was defended by that department, shall be deemed privileged from disclosure to the Parole Board.

Section 674. The following KRS sections are repealed:

194B.005 Definitions for chapter.

194B.010 Cabinet for Families and Children -- Functions.

194B.025 Power and authority of secretary.

194B.030 Major organizational units of the cabinet.

194B.040 Internal organization of offices and departments -- Secretary's powers to create positions -- Election of coverage under unemployment insurance.

194B.050 Execution of policies, plans, and programs -- Administrative regulations -- Fees.

194B.060 Confidentiality of records and reports.

194B.070 Utilizing community resources for delivery of services.

194B.080 Cost-allocation plan.

194B.090 Council for Families and Children.

194B.110 Kentucky Commission on Human Services Collaboration.

194B.130 Limitation on administrative processes.

194B.140 Special subcommittees of the Council for Families and Children.

194B.150 State officials as voting members of citizens' councils.

194B.160 Alternates or representatives for boards, commissions, and similar bodies.

194B.170 Secretary's authority to create special task forces, advisory committees, and other citizens' panels.

194B.190 Gifts and grants to the Council for Families and Children.

194B.200 Compensation and expenses of members of the Council for Families and Children -- Members of citizens' councils not public officers.

194B.360 Annual report on committed children -- Contents.

194B.500 Definitions for KRS 194B.505.

194B.505 Prohibited activities -- Commencement of proceedings for enforcement.

194B.510 Defense in prosecution.

194B.515 Access to criminal records by cabinet's agents.

194B.990 Penalties.

Section 675. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 676. Notwithstanding any provision of law to the contrary, to the extent that Executive Orders 2004-444 and 2004-726 are not otherwise confirmed or superseded by this Act, the General Assembly hereby confirms that portion of Executive Order 2004-444, dated May 11, 2004, that relates to the reorganization of the Cabinet for Health Services and the Cabinet for Families and Children, as amended by Executive Order 2004-726, dated July 9, 2004, relating to the internal structure of the Cabinet for Health and Family Services. The Office of the General Counsel was renamed the Office of Legal Services. The Office of Legislative and Public Affairs was created and the Department for Human Support Services were created. Undersecretaries for Health, Human Services, Children and Family Services, and Administrative and Fiscal Affairs were organized with oversight and management responsibility over designated departments and offices. The Office of Women's Physical and Mental Health was redesignated the Division of Women's Physical and Mental Health. The Office of Aging Services was redesignated the Division of Aging Services. The Office of Family Resource and Youth Services Centers was redesignated the Division of Family Resource and Youth Services Centers. The Governor's Office of Child Abuse and Domestic Violence Services was redesignated the Division of Child Abuse and Domestic Violence Services, within the Cabinet for Health and Family Services.

SB 49 was read for the first time by title and sponsor only and placed in the Calendar.

SB 49 is as follows:

SB 49, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Operations and Development Office.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.
    (o) Board of Directors for the Center for School Safety.
  3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.
    (c) Department for Environmental Protection.
    (d) Department for Natural Resources.
    (e) Department for Surface Mining Reclamation and Enforcement.
    (f) Office of Legal Services.
    (g) Office of Information Services.
    (h) Office of Inspector General.
  4. Transportation Cabinet:
    (a) Department of Highways.
      1. Office of Program Planning and Management.
      2. Office of Project Development.
      3. Office of Construction and Operations.
      4. Office of Intermodal Programs.
      5. Highway District Offices One through Twelve.
    (b) Department of Vehicle Regulation.
    (c) Department of Administrative Services.

(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.
(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.

6. Environmental and Public Protection Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Horse Racing Authority.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Office of Petroleum Storage Tank Environmental Assurance Fund.
(m) Department of Charitable Gaming.
(n) Mine Safety Review Commission.

7. Cabinet for Families and Children:
(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
    (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Human Resource Management.

8. Cabinet for Health Services.

(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

9. Finance and Administration Cabinet:
(a) Office of ***General Counsel***[~~Financial Management~~].
(b) Office of the Controller.
(c) ***Office of Administrative Services***[~~Department for Administration~~].
(d) ***Office of Public Information***[~~Department of Facilities Management~~].
(e) ***Department for Facilities and Support Services.***
(f) Department of Revenue.
(g) Commonwealth Office of Technology.
(h) State Property and Buildings Commission.
[~~(f) Kentucky Pollution Abatement Authority.~~]
(i)[~~(g)~~] Kentucky Savings Bond Authority.
[~~(h) Deferred Compensation Systems.~~]
(j)[~~(i)~~] Office of Equal Employment Opportunity *and* Contract Compliance.
[~~(j) Office of Capital Plaza Operations.~~]
(k) County Officials Compensation Board.
(l) Kentucky Employees Retirement Systems.
(m) Commonwealth Credit Union.
(n) State Investment Commission.
(o) Kentucky Housing Corporation.
[~~(p) Governmental Services Center.~~]
(p)[~~(q)~~] Kentucky Local Correctional Facilities Construction Authority.
(q)[~~(r)~~] Kentucky Turnpike Authority.
(r)[~~(s)~~] Historic Properties Advisory Commission.
(s)[~~(t)~~] Kentucky Tobacco Settlement Trust Corporation.
(t)[~~(u)~~] Eastern Kentucky Exposition Center Corporation.
(u)[~~(v)~~] State Board for Proprietary Education.
(v) Kentucky Higher Education Assistance Authority.
(w) Kentucky River Authority.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.

11.[~~ Revenue Cabinet:~~
~~(a) Department of Property Valuation.~~
~~(b) Department of Tax Administration.~~
~~(c) Office of Financial and Administrative Services.~~
~~(d) Department of Law.~~
~~(e) Department of Information Technology.~~
~~(f) Office of Taxpayer Ombudsman.~~

~~12.~~] Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.

12.[~~13~~]. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.
(g) The Foundation for Adult Education.
(h) Department for Training and Reemployment.
(i) Office of General Counsel.
(j) Office of Communication Services.
(k) Office of Workforce Partnerships.
(l) Office of Workforce Analysis and Research.
(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.

13.[~~14~~]. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.

(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. [~~The Governor's Office for Technology.~~
~~9.~~]Commission on Small Business Advocacy.
9.[~~10.~~] Education Professional Standards Board.

Section 2. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:
(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7) Kentucky Coal Council;
(8) Governor's Office of Child Abuse and Domestic Violence Services;
(9) [~~Governor's Office for Technology;~~
~~(10)~~] Office of Coal Marketing and Export;
(10)[~~(11)~~] Agricultural Development Board;
(11)[~~(12)~~] Commission on Small Business Advocacy;
(12)[~~(13)~~] Office of Early Childhood Development;
(13)[~~(14)~~] Kentucky Agency for Substance Abuse Policy;
(14)[~~(15)~~] Education Professional Standards Board; and
(15)[~~(16)~~] Kentucky Agricultural Finance Corporation.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:
(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6) Public Protection and Regulation Cabinet.
(7) Cabinet for Health Services.
(8) Cabinet for Families and Children.
(9) Finance and Administration Cabinet.
(10) Tourism Development Cabinet.
(11) [~~Revenue Cabinet.~~
~~(12)~~] Labor Cabinet.
(12)[~~(13)~~] Cabinet for Workforce Development.

(13)[~~(14)~~] Personnel Cabinet.

Section 4. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, [~~the Revenue Cabinet,~~]the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 5. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the***:***

(a) Office of ***the secretary;***

(b) Commonwealth Office of Technology[~~Financial Management, the Office of Capital Plaza Operations~~], and the Office of the Controller, each of which shall be headed by an executive director ***appointed by the secretary with the approval of the Governor; and***

(c) [~~, the~~]Department ***of Revenue***[~~for Administration,~~] and the Department for Facilities ***and Support Services***[~~Management~~], each of which shall be headed by a commissioner appointed by the secretary, upon the approval of the Governor, and responsible to the secretary. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into the offices, bureaus, divisions, or other units the secretary deems necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

(3) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050, and such appointees shall be major assistants to the secretary and shall assist in the development of policy.

Section 6. KRS 42.013 is repealed and reenacted as KRS 42.0145 and amended to read as follows:

(1) The office of the secretary of the Finance and Administration Cabinet ***shall consist of the Office of General Counsel, Office of Administrative Services, Office of Public Information, and Office of Equal Employment Opportunity and Contract Compliance, each headed by an executive director who shall be appointed by the secretary with the approval of the Governor. The office of the secretary*** shall include a deputy secretary who shall be appointed by the secretary with the approval of the Governor. The deputy secretary shall be responsible to and have such authority to sign for the secretary as the secretary designates in writing.

(2) The secretary may organize the office into such additional administrative units as he deems necessary to perform the functions and fulfill the duties of the cabinet, subject to the provisions of KRS Chapter 12.[~~The Office of the Secretary shall include the Office of Technology Operations, the Office of Legal and Legislative Services, the Office of Management and Budget, the Customer Resource Center, and the Administrative Policy and Audit Division.~~]

(3) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050, and such appointees shall be major assistants to the secretary and shall assist in the development of policy.

SECTION 7. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The Office of Public Information, in close communication with the secretary, shall oversee all publication information issues, manage requests for information, prepare press releases, and coordinate the publication of newsletters, reports, Web site information, and other statewide communications of the cabinet.

Section 8. KRS 42.017 is amended to read as follows:

(1) The Office of ***General Counsel***[~~Legal and Legislative Services~~] established within the Office of the Secretary by ***Section 6 of this Act***[~~KRS 42.013~~] shall be [~~generally~~]responsible for ***the coordination and provision of legal services for the cabinet and for other***[~~such~~] functions and duties as the secretary may assign relating to the performance of the cabinet's legal services[~~ and legislative liaison functions~~].

(2) [~~There shall be included within~~]The Office of ***General Counsel shall be headed by an executive director who shall function as the***[~~Legal and Legislative Services a~~] general counsel. ***The executive director shall be appointed in***

accordance with[~~, whose appointment shall be made pursuant to~~] KRS 12.210 ***and***[~~, who~~] shall report to the secretary[~~ through the head of the Office of Legal and Legislative Services~~]. The Attorney General, on request of the secretary, may designate attorneys in the Office of ***General Counsel***[~~Legal and Legislative Services~~] as assistant attorneys general as provided in KRS 15.105.

(3) The Office of General Counsel shall consist of two (2) offices, each of which shall provide legal services for its respective offices and departments, as follows:

(a) Office of Legal Services for Finance and Technology, headed by an executive director and composed of organizational entities deemed appropriate by the secretary of the Finance and Administration Cabinet; and

(b) Office of Legal Services for Revenue, headed by an executive director, including the Division of Protest Resolution and any additional organizational entities deemed appropriate by the secretary of the Finance and Administration Cabinet.

Section 9. KRS 42.023 is repealed and reenacted as KRS 42.0171 and amended to read as follows:

(1) The ***Office of Administrative Services established in Section 6 of this Act***[~~Department for Administration of the cabinet established by KRS 42.014~~] shall be generally responsible for ***all internal administrative and human resource functions of the cabinet, including but not limited to providing administrative assistance; managing and preparing the cabinet's budget; performing general accounting; managing fiscal, personnel, and payroll functions of the cabinet; providing statewide postal and printing services; providing administrative support to boards and commissions; and performing*** any ***additional administrative*** functions and duties the secretary may assign[~~ relating, but not limited to, supervision of purchasing and store keeping, control of stores, control of personal property and disposition of surplus personal property, printing and reproductions, state forms, postal services, and technical assistance and advice to state agencies~~].

(2) There shall be established in the ***Office of Administrative Services the Division of Budget and Planning, the Division of Human Resources, the Division of Administrative Support Services, the Division of Occupations and Professions, the Division of Postal Services, and the Division of Printing Services***[~~Department for Administration a Division of Material and Procurement Services, a Division of Surplus Property, a Division of Printing, a Division of Risk Management, a Division of Creative Services, a Division of Occupations and Professions, and a Division of Postal Services~~], each of which shall be headed by a ***division*** director appointed by the ***secretary of the Finance and Administration Cabinet***[~~commissioner~~], subject to the approval of the Governor, and who shall be responsible to the ***executive director of the Office of Administrative Services***[~~commissioner~~]. There may be, if needed, sections assigned to specific areas of work, responsible directly to the ***executive director of the Office of Administrative Services***[~~commissioner for administration~~].

Section 10. KRS 42.025 is repealed and reenacted as KRS 42.0172 and amended to read as follows:

(1) The Division of Printing ***Services*** shall be responsible for the printing and duplicating needs of state agencies, as designated by the Finance and Administration Cabinet.

(2) The Division of Postal Services shall operate the centralized postal services for executive branch agencies as set forth in KRS 12.020. The division shall operate at a central location with additional locations necessary to maintain and improve service levels.

Section 11. KRS 42.0201 is amended to read as follows:

(1) There is created within the Finance and Administration Cabinet the Office of the Controller. [~~The office shall be attached to the Office of the Secretary of the Finance and Administration Cabinet for administrative and reporting purposes.~~]

(2) The Office of the Controller shall be headed by an executive director appointed by the secretary of the Finance and Administration Cabinet with the approval of the Governor. The executive director shall function as the state controller, who shall be a person qualified by education and experience for the position and held in high professional esteem in the accounting community.

(3) The state controller shall be the Commonwealth's chief accounting officer and shall be responsible for all aspects of accounting policies and procedures, financial accounting systems, and internal accounting control policies and procedures. The Office of the Controller shall establish guidelines for state personnel administration on issues relating to paycheck distribution dates, assignment of data elements to accurately report labor costs, assignment and tracking of actual expenditures by code, and coverage issues relating to Social Security and Medicare.

(4) The state controller; the executive director of the Office of Financial Management, Finance and Administration Cabinet; and the state budget director designated under KRS 11.068 shall develop and maintain the Commonwealth's strategic financial management program.

(5) ***Executive directors and division directors appointed under this section shall be appointed by the secretary with the approval of the Governor.***

(6) There are established in the Office of the Controller the ***following organizational entities:***[~~Division of Statewide Accounting Services and the Division of Social Security.~~]

(a) ***The Office of Policy and Audit, which shall be headed by an executive director and shall have the duties and responsibilities established in Section 13 and Section 14 of this Act;***

(b) The Office of Financial Management, which shall be headed by an executive director and shall have the duties

and responsibilities established in Section 16 of this Act;

(c) The Office of Material and Procurement Services, which shall be headed by an executive director and shall have the duties established in Section 12 of this Act;

(d) The Office of Customer Resource Center, which shall be headed by an executive director and shall be responsible for providing a help desk for users of state government's financial and procurement system, including state employee users and vendors and payees of the Commonwealth who do, or would like to do, business with the state; training state employees in the use of state government's financial and procurement system; and assisting cabinet entities in improving the quality of their products and processes;

(e) The Division of Local Government Service, which shall be headed by a division director and shall be responsible for:

1. Providing property valuation administrators with fiscal, personnel, payroll, training, and other essential administrative support services;

2. Overseeing Kentucky's Social Security coverage program, including but not limited to all aspects of FICA wage reporting for state government and the Commonwealth's Social Security coverage agreement;

3. Serving as liaison between local governments and the federal Internal Revenue Service and Social Security Administration;

4. Serving as the payroll and fiscal officer for the sheriff and clerk in counties over seventy thousand (70,000) in population, disbursing various reimbursements and expenditures to local governments and serving as liaison and conduit for all court fees associated with report of state money through the Circuit Courts; and

5. Directing the federal employment tax program for state employees;

(f) The Division of Statewide Accounting Services***, headed by a division director***[~~shall be headed by a director~~] appointed by the secretary of the Finance and Administration Cabinet, subject to the approval of the Governor. The director shall report directly to the state controller. The division shall perform financial record keeping functions at the state controller's direction, and shall be responsible for:

1. The performance of the cabinet's functions outlined in KRS 45.305, 48.800, and other related statutes; and

2. The state government's duties and functions relating to the county fee system for local entities.

[~~(b) The Division of Social Security shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet pursuant to KRS 12.050. The director shall report directly to the state controller. The division shall be responsible for the duties of the state agency for Social Security specified in KRS 61.410 to 61.500.~~]

Section 12. KRS 42.024 is amended to read as follows:

[~~(1)~~]The ***Office***[~~Division~~] of Material and Procurement Services ***within the Office of the Controller*** shall be responsible for the performance of the cabinet's purchasing functions under KRS Chapters 45 and 45A, except those purchasing functions related to the acquisition of interests in real property, and contractual and construction services which are related to and required in connection with the construction, renovation, and repair of state-owned buildings. The ***Office***[~~Division~~] of Material and Procurement Services shall be responsible for the control of all state-purchased personal property.

[~~(2) The Division of Surplus Property shall be responsible for the disposition of all personal property of the state declared surplus. The division shall be the single state agency of the Commonwealth of Kentucky that may receive, warehouse, and distribute surplus property under the Federal Property and Administrative Services Act of 1949, as amended, and any other federal law relating to the disposal of surplus federal property to the states and political subdivisions within the states. The division shall comply with federal laws and regulations in the administration of surplus property received through federal agencies. The secretary of the Finance and Administration Cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to comply with the minimum standards established by federal laws and regulations governing disposal of surplus federal property and to implement subsection (3) of this section.~~

~~(3) The Division of Creative Services shall provide photography, multimedia, and graphic service to state government.~~

~~(4) The secretary of the Finance and Administration Cabinet may establish, charge, and collect from donees of federal surplus property a fair and reasonable fee or service charge to defray the cost of operating the surplus property disposal program. The fees shall be deposited in a trust and agency account in the State Treasury to the credit of the Division of Surplus Property.~~]

Section 13. KRS 42.065 is amended to read as follows:

(1) ***The Office of***[~~An Administrative~~] Policy and Audit[~~ Division is~~] established in the Office of the ***Controller in Section 11 of this Act***[~~Secretary within the Finance and Administration Cabinet.~~

~~(2) The Administrative Policy and Audit Division shall be headed by a director, appointed by the secretary of finance pursuant to KRS 12.050, and shall include other personnel employed pursuant to KRS Chapter 18A, as determined by the director of the division, with the approval of the secretary, to be necessary and desirable to carry out the division's functions.~~

~~(3) The division~~] may, with the approval of the secretary of ***the Finance and Administration Cabinet***[~~finance~~], conduct any internal audit, investigation, or management review in the Finance and Administration Cabinet related to the secretary's duties and responsibilities as chief financial officer of the Commonwealth pursuant to KRS 42.012.

(2)[~~(4)~~] When it is necessary to complete an internal audit, investigation, or management review in the Finance and Administration Cabinet, with the written approval of the secretary of the ***Finance and Administration Cabinet, the Office of Policy and Audit***[~~Governor's Executive Cabinet, the division~~] shall have access, during business hours, to all books, reports, papers, and accounts in the office or under the custody or control of any budget unit, or of any other program cabinet, department, or agency under the authority and direction of the Governor.

Section 14. KRS 42.0245 is repealed and reenacted as KRS 42.0651 and amended to read as follows:

(1)[~~There is established within the Department for Administration in the Finance and Administration Cabinet the Division of Risk Management. The division shall be headed by a director who shall be appointed by the secretary of the Finance and Administration Cabinet subject to the approval of the Governor.~~

~~(2)~~] The ***Office of Policy and Audit***[~~Division of Risk Management~~] shall:

(a) Oversee and assist the management of the state fire and tornado insurance fund established in KRS Chapter 56;

(b) Develop and manage programs of risk assessment and insurance for the protection of state property not covered by the state fire and tornado insurance fund;

(c) Advise the secretary of the Finance and Administration Cabinet on the fiscal management of programs relating to life insurance, workers' compensation, and health care benefits for state employees;

(d) Serve as the central clearinghouse for coordinating and evaluating existing and new risk management programs within all state agencies;

(e) Develop financing techniques for risk protection; and

(f) Develop and implement other risk management, insurance, and self-insurance programs or other functions and duties as the secretary of the Finance and Administration Cabinet may direct the office to undertake and implement within the general statutory authority and control of the Finance and Administration Cabinet over state property and fiscal affairs of the executive branch of state government, including, but not limited to, those areas pertaining to tort and contractual liability, fidelity, and property risks.

(2)[~~(3)~~] Nothing in this section shall be construed or interpreted as affecting the operation of the employee benefit programs generally administered by the Division of Employee Benefits within the Personnel Cabinet and of the State Risk and Insurance Services programs administered by the Department of Insurance. However, both of those departments shall coordinate the operation of life insurance, workers' compensation, health care benefit programs, and other self-insured programs with the ***Office of Policy and Audit***[~~Division of Risk Management~~].

(3)[~~(4)~~] All cabinets, departments, boards, commissions, and other state agencies shall provide to the ***Office of Policy and Audit***[~~Division of Risk Management~~] the technical advice and other assistance the ***Office of Policy and Audit***[~~Division of Risk Management~~] or the secretary of the Finance and Administration Cabinet shall request in the performance of the functions of the ***office***[~~division~~] as described in this section.

(4)[~~(5)~~] The secretary of the Finance and Administration Cabinet shall have the power and authority to promulgate administrative regulations pursuant to KRS Chapter 13A for purposes of implementing a risk management program for the executive branch of state government. Any administrative regulations promulgated by the secretary shall be administered by the ***Office of Policy and Audit***[~~Division of Risk Management~~].

Section 15. KRS 42.400 is amended to read as follows:

(1) ***The Office of Financial Management established in Section 11 of this Act***[~~There is established within the Finance and Administration Cabinet an Office of Financial Management, which~~] shall be headed by an executive director responsible to the secretary of the Finance and Administration Cabinet, and appointed by the secretary upon approval of the Governor in accordance with the provisions of KRS 12.050.

(2) There are included in the Office of Financial Management ***established in Section 11 of this Act***[~~,~~] the positions of deputy executive directors for investment and debt management, who shall be employed in the classified service as set forth in KRS Chapter 18A.

Section 16. KRS 42.410 is amended to read as follows:

(1) The Office of Financial Management established in ***Section 11 of this Act***[~~KRS 42.400~~] shall, subject to the provisions of KRS 41.020 to 41.375 and KRS 42.500, have and perform functions and duties as follows:

(a) The analysis and management of short and long-term cash flow requirements;

(b) The maximization of the return on state investments given the cash flow and liquidity requirements;

(c) The coordination and monitoring of cash needs relative to investment and debt activity;

(d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;

(e) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments; and

(f) All other functions of the cabinet relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the State Property and Buildings Commission and the State Investment Commission.

(2) The Office of Financial Management shall render monthly written reports concerning the performance of each investment to the State Investment Commission.

(3) The Office of Financial Management shall review state appropriation-supported bond issues every six (6) months for possible debt service savings through advanced refundings.

(4) The Office of Financial Management shall submit a report within forty-five (45) days after the publication of the Comprehensive Annual Financial Report to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, disposition of savings, and information on economic, fiscal, and market indicators of the Commonwealth's debt position.

(5) The state debt report shall include, but not be limited to, economic, fiscal, and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.

(6) Economic indicators shall include:

(a) Nonappropriation-supported debt as a percent of state total personal income;

(b) Nonappropriation-supported debt as a percent of total assessed value of property;

(c) Nonappropriation-supported debt per capita;

(d) Appropriation-supported debt as a percent of state total personal income;

(e) Appropriation-supported debt as a percent of total assessed value of property;

(f) Appropriation-supported debt per capita;

(g) Appropriation-supported debt service as a percent of total state personal income;

(h) Appropriation-supported debt service as a percent of total assessed value of property; and

(i) Appropriation-supported debt service per capita.

(7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund account from which debt service is expended.

(8) Fiscal indicators shall include:

(a) Annual appropriation-supported debt service as a percent of total revenues; and

(b) Annual appropriation-supported debt service as a percent of available revenues.

(9) Market indicators shall include:

(a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each nonappropriation-supported bond issued in the fiscal year just ended;

(b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;

(c) A comparison of the difference between the true interest cost of each nonappropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service on a date relevant to the bond issue; and

(d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service on a date relevant to the bond issue.

(10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service, and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population, and selected bond indexes.

(11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.

(12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission by KRS 42.500 and 42.525.

Section 17. KRS 42.027 is repealed and reenacted as KRS 42.425 and amended to read as follows:

(1) ***(a)*** The Department for Facilities ***and Support Services***~~[Management]~~ established in the Finance and Administration Cabinet by ***Section 5 of this Act***~~[KRS 42.014]~~ shall be generally responsible for performance of the cabinet's functions and duties as outlined in KRS Chapters 45, 45A, and 56 with relation to the management and administration of the State Capital Construction Program, including without limitation to the generality thereof the procurement of necessary consulting services related to capital construction and building renovation projects, construction services, and supervision of building construction projects, and for the maintenance and operation of the state government's real property management functions and physical plant management functions.

(b) The department shall be headed by a commissioner appointed by the secretary of the Finance and Administration Cabinet.

(c) The department shall have the primary responsibility for developing and implementing policies applicable to all state agencies to ensure effective planning for and efficient operation of state office buildings, and shall provide appropriate assistance regarding the planning and efficient operation of all state facilities.

(d) The department shall be responsible for the disposition of all personal property of the state declared surplus. The department shall be the single state agency of the Commonwealth of Kentucky that may receive, warehouse, and distribute surplus property under the Federal Property and Administrative Services Act of 1949, as amended, and any other federal law relating to the disposal of surplus federal property to the states and political subdivisions within the states. The department shall comply with federal laws and regulations in the administration of surplus property received through federal agencies. The secretary of the Finance and Administration Cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to comply with minimum standards established by federal laws and regulations governing disposal of surplus federal property and to implement the fee or service charge provisions contained in this paragraph. The secretary of the Finance and Administration Cabinet may establish, charge, and collect from donees of federal surplus property a fair and reasonable fee or service charge to defray the cost of operating the surplus property disposal program. The fees shall be deposited in a trust and agency account in the State Treasury to the credit of the Department for Facilities and Support Services.

(e) The department shall be divided for administrative and operational purposes into a***:***

1. Division of Engineering ***and Contract Administration;***

2. Office of Building and Mechanical Services, headed by an executive director appointed by the secretary in accordance with KRS 12.050. The office shall provide building and grounds maintenance, mechanical maintenance, and electronic security services to state-owned facilities across the Commonwealth and shall consist of the Division of Building Services and the Division of Mechanical Services;~~[a Division of Contracting and Administration, a Division of Building Services, a Division of Mechanical Maintenance and Operations, a]~~

3. Division of Real ***Properties;***~~[Property, and a]~~

4. Division of Historic Properties***; and***

5. Division of Surplus Properties.

(f) Each division~~[, each of which]~~ shall be headed by a ***division*** director appointed by the secretary, subject to the approval of the Governor, and responsible to the commissioner ***of the Department for Facilities and Support Services***. The commissioner shall provide for the distribution of the department's work among the divisions within the department.

(2) In conjunction with the responsibilities listed in subsection (1) of this section, the Department for Facilities ***and Support Services***~~[Management]~~ shall have the following duties:

(a) Establish policies to ensure efficient utilization of state property by:

1. Requiring the development of guidelines which set forth space standards and criteria for determining the space needs of state agencies, and maintaining an inventory which tracks the agencies' compliance with those standards and criteria; and

2. Requiring certification of compliance, or justification for exceptions, as a criterion for approval of additional space;

(b) Establish policies to ensure effective planning for state facilities by:

1. Developing a long-range plan for the Frankfort area, with priority on reducing dependency on leased space and encouraging the consolidation of agencies' central offices into single locations, and shared offices for agencies with similar functions; and

2. Developing long-range plans for housing state agencies in metropolitan areas, with priority on centralization of services and coordination of service delivery systems; and

3. Encouraging executive branch agencies to expand long-range planning efforts, consistent with the policies of the Capital Planning Advisory Board; and

4. Supporting long-range planning for a statewide information technology infrastructure to more efficiently deliver state government services;

(c) Establish priorities to allow least-cost financing of state facilities by:

1. Initiating policies which authorize the state to use innovative methods to lease, purchase, or construct necessary facilities; and

2. Requiring cost analysis to determine the most effective method of meeting space needs, with consideration for ongoing operations and initial acquisition; and

(d) Implement and maintain a comprehensive real property and facilities management database to include all state facilities and land owned or leased by the executive branch agencies, including any postsecondary institution. All state agencies and postsecondary institutions shall work cooperatively with the Department for Facilities *and Support Services*[~~Management~~] to implement and maintain the database.

(3) The Department for Facilities *and Support Services*[~~Management~~] shall develop plans for the placement of computing and communications equipment in all facilities owned or leased by state government. As part of this planning process, the department shall:

(a) Provide adequate site preparation in all state-owned facilities and require the same of those from whom the state leases space as part of the lease agreement;

(b) Fund a minimum level of site preparation for computing and communications in each new state-owned facility; and

(c) As new office sites are developed, or existing ones undergo renovation, consider the placement of shareable high-cost, high-value facilities at strategic locations throughout the state. These facilities may include video teleconference centers, optical scanning and storage services, and gateways to high-speed communication networks.

Section 18. KRS 42.0271 is repealed and reenacted as KRS 42.430 and amended to read as follows:

(1) To honor those Kentuckians who proudly served their country during the Vietnam War but remain unaccounted for, the Department of Veterans' Affairs shall update the plaque at the base of the Freedom Tree near the Floral Clock on the grounds of the New Capitol Annex to contain the names of Kentucky Vietnam War POW/MIAs from the most recent official accounting available from the United States Department of Defense. The plaque shall also contain a depiction of the POW/MIA flag of the National League of Families of American Prisoners of War and Missing in Southeast Asia.

(2) The Department of Veterans' Affairs shall be responsible for the design of the new plaque required by subsection (1) of this section, and the plaque shall be paid for by the Department of Veterans' Affairs. The Department of Veterans' Affairs may receive appropriations, gifts, grants, federal funds, and any other funds, both public and private, to defray the cost of updating the plaque.

(3) The Department of Facilities *and Support Services*[~~Management~~] shall be responsible for preparing the base for the updated plaque, and for installing the plaque. The Department of Facilities *and Support Services*[~~Management~~] shall be reimbursed the cost of the installation by the Department of Veterans' Affairs. The Department of Facilities *and Support Services*[~~Management~~] shall also be responsible for the routine maintenance of the Freedom Tree, the memorial plaque, and the grounds surrounding the tree and plaque.

Section 19. KRS 131.020 is amended to read as follows:

(1) The *Department of* Revenue[~~ Cabinet~~]*, headed by a commissioner appointed by the secretary with the approval of the Governor,* shall be organized into the following functional units:

(a) *Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing verbal and written technical advice on Kentucky tax law, drafting proposed tax legislation and regulations, analyzing tax legislation, providing expert witnesses in tax litigation, providing consultation and assistance in protested tax cases, and conducting training and education programs;*

(b) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:

1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;

2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and

3. Division of Registration and Data Integrity, which shall be responsible for ensuring that the data entered into the department's tax systems is accurate and complete and for assisting the taxing areas in

proper procedures to ensure the accuracy of the data over time;

[~~Office of the Secretary. The Office of the Secretary shall include the Office of the Taxpayer Ombudsman, the Office of Financial and Administrative Services, principal assistants and other personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of the office;~~

~~(b) Office of Financial and Administrative Services. The Office of Financial and Administrative Services shall be headed by an executive director. The functions and duties of the office shall include personnel services, administrative support, preparation and administration of the budget, training, and asset management;~~]

(c) Office of ***the*** Taxpayer Ombudsman. The Office of ***the*** Taxpayer Ombudsman shall be headed by ***an executive director, functioning as the***[~~a~~] taxpayer ombudsman as established by KRS 131.051(1) ***and KRS 131.071, who shall report to the commissioner***. The functions and duties of the office shall consist of those established by KRS 131.071;

(d) [~~Department of Law. The Department of Law shall be headed by a commissioner. The functions and duties of the department shall include establishing Revenue Cabinet tax policies, providing information to the public, conducting tax research, collecting delinquent taxes, conducting conferences, administering taxpayer protests, issuing final rulings, administering all activities relating to assessments issued pursuant to KRS 138.885, 139.185, 139.680, 141.340, 142.357, and 143.085, enforcing the criminal laws of the Commonwealth involving revenue and taxation, and representing the cabinet in legal and administrative actions. The Department of Law shall consist of the divisions of legal services, protest resolution, tax policy, collections, and research;~~

~~(e)~~]***Office***[~~Department~~] of Property Valuation. The ***Office***[~~Department~~] of Property Valuation shall be headed by ***an executive director who shall report directly to the***[~~a~~] commissioner. The functions and duties of the ***office***[~~department~~] shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering tangible and intangible personal property taxes, and collecting delinquent taxes. The ***Office***[~~Department~~] of Property Valuation shall consist of the Divisions of***:***

1. Local Valuation, ***which shall oversee the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;***

2. State Valuation, ***which shall administer all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program;*** and

3. Minerals Taxation and GIS Services, which shall administer the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS)[~~Technical Support~~];

(e) Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the Division of Sales and Use Tax, which shall administer the sales and use tax, and the Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;

(f) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and franchise taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Individual Income Tax, which shall administer returns filed for the following taxes: individual income, fiduciary, employer withholding, pass-through entity withholding, and partnership; and

2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, and bank franchise tax;

(g) Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program; and

(h) Property Valuation Administrators Office (Accounting), headed by an executive director, which shall provide budget, fiscal, personnel, and payroll administration for all property valuation administrators and their employees; coordinate open enrollment for health and life insurance; and direct property tax educational courses.

[~~(f) Department of Tax Administration. The Department of Tax Administration shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, conducting audits, reviewing audits, rendering taxpayer assistance, and collecting delinquent taxes. The Department of Tax Administration shall consist of the Divisions of Field Operations, Revenue Operations, and Compliance and Taxpayer Assistance; and~~

~~(g) Department of Information Technology. The Department of Information Technology shall be headed by a~~

~~commissioner. The functions and duties of the department shall include the development and maintenance of technology and information management systems in support of all units of the cabinet. The Department of Information Technology shall consist of the Division of Systems Planning and Development and the Division of Technology Infrastructure Support.~~]

(2) The functions and duties of the ***department***[~~cabinet~~] shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the ***department***[~~cabinet~~] shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the ***department***[~~cabinet~~], and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) Except as provided in KRS 131.190(4), the ***department***[~~cabinet~~] shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.

(4) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

Section 20. KRS 131.071 is amended to read as follows:

(1) There is hereby created and established within the ***Department of*** Revenue[~~ Cabinet~~] an Office of Taxpayer Ombudsman to be staffed with a taxpayers' rights advocate and such other support personnel as may be deemed necessary to carry out the spirit and the specific purposes of KRS 131.041 to 131.081.[~~ For administrative and budgetary purposes, the Office of Taxpayer Ombudsman shall be attached to the Office of the Secretary of Revenue.~~]

(2) The taxpayer ombudsman shall be a person with either no less than five (5) years of tax administration experience at a supervisory or management level or no less than ten (10) years of tax administration experience with at least five (5) years of experience working directly in the Office of Taxpayer Ombudsman. The taxpayer ombudsman shall possess a broad general knowledge of the tax laws, regulations, systems, and procedures administered or utilized by the ***department***[~~cabinet~~].

(3) The taxpayer ombudsman shall:

(a) Coordinate the resolution of taxpayer complaints and problems if so requested by a taxpayer or his representative.

(b) Provide recommendations to the ***department***[~~cabinet~~] for new or revised informational publications and recommend taxpayer and ***department***[~~cabinet~~] employee education programs needed to reduce or eliminate errors or improve voluntary taxpayer compliance.

(c) Provide recommendations to the ***department***[~~cabinet~~] for simplification or other improvements needed in tax laws, regulations, forms, systems, and procedures to promote better understanding and voluntary compliance by taxpayers.

(d) At least annually, on or before October 1, prepare and submit a report to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] summarizing the activities of the Office of Taxpayer Ombudsman during the immediately preceding fiscal year describing any recommendations made pursuant to paragraphs (b) and (c) of this subsection, including the progress in implementing such recommendations, and providing such other information as the taxpayer ombudsman deems appropriate relating to the rights of Kentucky taxpayers.

Section 21. KRS 11.501 is amended to read as follows:

The General Assembly finds and declares that:

(1) The establishment of the position of the ***executive director of the Commonwealth Office of Technology, appointed by the secretary of the Finance and Administration Cabinet with the approval of the Governor,***[~~Chief Information Officer~~] as the Commonwealth's single point of contact and spokesperson for all matters related to information technology and resources, including policies, standard setting, deployment, strategic and tactical planning, acquisition, management, and operations is necessary and in keeping with the industry trends of the private and public sectors;

(2) The appropriate use of information technology by the Commonwealth can improve operational productivity, reduce the cost of government, enhance service to customers, and make government more accessible to the public;

(3) Government-wide planning, investment, protection, and direction for information resources must be enacted to:

(a) Ensure the effective application of information technology on state business operations;

(b) Ensure the quality, security, and integrity of state business operations; and

(c) Provide privacy to the citizens of the Commonwealth;

(4) The Commonwealth must provide information technology infrastructure, technical directions, and a proficient organizational management structure to facilitate the productive application of information technology and resources to accomplish programmatic missions and business goals;

(5) Oversight of large scale and government statewide systems or projects is necessary to protect the Commonwealth's investment and to ensure appropriate integration with existing or planned systems;

(6) A career development plan and professional development program for information technology staff of the executive branch

is needed to provide key competencies and adequate on-going support for the information resources of the Commonwealth and to ensure that the information technology staff will be managed as a Commonwealth resource;

(7) The Commonwealth is in need of information technology advisory capacities to the Governor and the agencies of the executive cabinet;

(8) Appropriate public-private partnerships to supplement existing resources must be developed as a strategy for the Commonwealth to comprehensively meet its spectrum of information technology and resource needs;

(9) Technological and theoretical advances in information use are recent in origin, immense in scope and complexity, and change at a rapid rate, which presents Kentucky with the opportunity to provide higher quality, more timely, and more cost-effective government services to ensure standardization, interoperability, and interconnectivity;

(10) The sharing of information resources and technologies among executive branch state agencies is the most cost-effective method of providing the highest quality and most timely government services that would otherwise be cost-prohibitive;

(11) The ability to identify, develop, and implement changes in a rapidly moving field demands the development of mechanisms to provide for the research and development of technologies that address systems, uses, and applications; and

(12) The exercise by the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~] of powers and authority conferred by KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 shall be deemed and held to be the performance of essential governmental functions.

Section 22. KRS 11.505 is amended to read as follows:

(1) There is hereby created within the ***Finance and Administration Cabinet***[~~Office of the Governor~~] an agency of state government known as the ***Commonwealth Office of Technology***[~~Governor's Office for Technology~~].

(2) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall be headed by ***an executive director appointed by the secretary of the Finance and Administration Cabinet. Duties and functions of the executive director shall include those***[~~the chief information officer for the Commonwealth~~] established in KRS 11.511.

(3) The ***Commonwealth Office of Technology***[~~Governor's Office for Technology~~] shall consist of the following ***four (4)***[~~ six (6) executive~~] offices, each headed by an executive director ***and organized into divisions headed by a division director***:

(a) Office of ***the 911 Coordinator, which shall have the duties and responsibilities established in Section 24 of this Act***[~~Geographic Information~~];

(b) ***Office of Enterprise Information Technology Policy and Planning, which shall consist of the following divisions:***

1. Division of Enterprise Architecture;

2. Division of Relationship and Service Management;

3. Division of Geographic Information; and

4. Division of Information Technology Contract and Asset Management[~~Office of Human Resource Management and Development~~];

(c) [~~Office of Administrative Services, consisting of the:~~

~~1. Division of Financial and Business Management; and~~

~~2. Division of Asset Management;~~

~~(d) Office of Policy and Customer Relations, consisting of the:~~

~~1. Division of Planning and Architecture;~~

~~2. Division of Relationship Management; and~~

~~3. Division of Information Technology Training;~~

~~(e)~~]Office of Infrastructure ***Services***[~~Service~~], consisting of the:

1. Division of ***Infrastructure***[~~End User~~] Support;

2. Division of Security Services;

3. Division of Computing Services; ***and***

4. Division of Communication Services; and

[~~5. Division of Information Technology Operations;~~]

(d)[~~(f)~~] Office of Consulting and Project Management, consisting of the:

1. Division of Centers of Expertise;

2. [~~Division of Project Office and Integration;~~

~~3.~~]Division of Human Services Systems;

3.[~~4.~~] Division of Financial Systems;

4.[~~5.~~] Division of Transportation Systems; ***and***

5.[~~6.~~] Division of[~~ Workforce Development and~~] General Government Systems[~~; and~~

~~(g) Office of General Counsel~~].

Section 23. KRS 11.511 is amended to read as follows:

(1) [~~There is hereby established a position of chief information officer for the Commonwealth. This position shall be exempt from the classified service under KRS 18A.115 and from the salary limitations of KRS 64.640, and shall be bonded commensurate with cabinet secretaries under KRS 62.160. The chief information officer shall be appointed by the Governor and serve in the Governor's Executive Cabinet. The chief information officer shall report to the secretary of the Governor's cabinet concerning his or her responsibilities to provide direction, stewardship, leadership, and general oversight of information technology and information resources.~~

~~(2)~~]The ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~] shall be the principal adviser to the Governor and the executive cabinet on information technology policy, including policy on the acquisition and management of information technology and resources.

(2)[~~(3)~~] The ***executive director***[~~chief information officer~~] shall carry out functions necessary for the efficient, effective, and economical administration of information technology and resources within the executive branch. Roles and duties of the ***executive director***[~~chief information officer~~] shall include but not be limited to:

- (a) Assessing, recommending, and implementing information technology governance and organization design to include effective information technology personnel management practices;
- (b) Integrating information technology and resources plans with agency business plans;
- (c) Overseeing shared Commonwealth information technology resources and services;
- (d) Performing as the focal point and representative for the Commonwealth in information technology and related areas with both the public and private sector;
- (e) Establishing appropriate partnerships and alliances to support the effective implementation of information technology projects in the Commonwealth;
- (f) Identifying information technology applications that should be statewide in scope, and ensuring that these applications are not developed independently or duplicated by individual state agencies of the executive branch;
- (g) Establishing performance measurement and benchmarking policies and procedures;
- (h) Preparing annual reports and plans concerning the status and result of the state's specific information technology plans and submitting these annual reports and plans to the Governor and the General Assembly; and
- (i) Managing the ***Commonwealth Office of Technology***[~~Governor's Office for Technology~~] and its budget.

SECTION 24. A NEW SECTION OF KRS 11.501 to 11.517 IS CREATED TO READ AS FOLLOWS:

The Office of the 911 Coordinator shall have the following duties and responsibilities:

(1) Assist state and local government agencies in their efforts to improve and enhance 911 systems in Kentucky, including:

- ***(a) Providing consultation to local elected officials, 911 coordinators, and board members; and***
- ***(b) Providing consultation to communities with basic 911 systems that are updating their facilities, equipment, or operations;***

(2) Develop and provide educational forums and seminars for the public safety community;

(3) Develop standards and protocols for the improvement and increased efficiency of 911 services in Kentucky; and

(4) Administer the provisions of KRS 65.7621 to 65.7643 relating to commercial mobile radio service emergency telecommunications.

Section 25. KRS 7B.080 is amended to read as follows:

(1) The operation of the center shall be funded from the restricted agency fund established in subsection (3) of this section.

(2) There is hereby established a fiduciary fund to be entitled the Kentucky Long-Term Policy Research Center fund. The fund may receive appropriations, gifts, grants, and federal funds. Moneys in the fund shall not lapse back to the General Fund at the end of any fiscal year. Moneys in the fund shall be invested by the Office of Financial Management ***within the Office of the Controller***, consistent with the provisions of KRS Chapter 42.

(3) A restricted agency fund account is established to receive the interest on the fiduciary fund and any other resources made available to the center. Interest from the fiduciary fund shall be credited to the restricted agency fund account on a monthly basis for the center's operations. Moneys in the account shall be invested by the Office of Financial Management ***within the Office of the Controller***, consistent with the provisions of KRS Chapter 42.

(4) Any appropriation by the General Assembly to the fiduciary fund shall remain intact and shall not be available to the board, and should the center and its functions terminate, the principal and any remaining interest from other accumulated funds shall revert to the general fund of the Commonwealth or to the donor.

Section 26. KRS 11.026 is amended to read as follows:

(1) As used in this section, "state curator" means the director of the Division of Historic Properties within the Department ***for***

Facilities and Support Services~~[of Facilities Management]~~ in the Finance and Administration Cabinet with responsibilities for the preservation, restoration, acquisition, and conservation of all decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments, and other aesthetic materials that have been acquired, donated, loaned, and otherwise obtained by the Commonwealth of Kentucky for the Executive Mansion, the Old Governor's Mansion, the New State Capitol, and other historic properties under the control of the Finance and Administration Cabinet.

(2) The Historic Properties Advisory Commission is established to provide continuing attention to the maintenance, furnishings, and repairs of the Executive Mansion, Old Governor's Mansion, and New State Capitol. The commission shall be attached to the Finance and Administration Cabinet for administrative purposes.

(3) The commission shall consist of fourteen (14) members. It is recommended that one (1) shall be the state curator, one (1) shall be the director of the Kentucky Historical Society, one (1) shall be a resident of Franklin County with experience in restoration, one (1) shall be the director of the Executive Mansion, one (1) shall be the director of the Old Governor's Mansion, and the remainder of the membership shall be selected from the state-at-large from persons with experience in historical restoration.

(4) The officers of the commission shall consist of a chairman, who shall be appointed by the Governor, and a secretary, who shall be responsible for the keeping of the records and administering the directions of the commission. The state curator of the Commonwealth of Kentucky shall serve as the secretary of the commission. A member of the Governor's family may serve as an honorary member of the commission. A simple majority of the membership shall constitute a quorum for the transaction of business by the commission.

(5) The public members of the commission shall be appointed by the Governor and shall serve terms of four (4) years except that of the members initially appointed, two (2) members shall serve terms of one (1) year; two (2) members shall serve terms of two (2) years; one (1) member shall serve a term of three (3) years; and one (1) member shall serve a term of four (4) years. The director of the Historical Society and director of the Executive Mansion shall serve on the commission in an ex officio capacity. The persons holding the offices of director of the Historical Society, director of the Executive Mansion and state curator shall serve terms concurrent with holding their respective offices.

(6) Each commission member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

(7) There is established in the State Treasury a historic properties endowment trust fund which shall be administered by the director of the Division of Historic Properties under the supervision of the Commissioner of the Department for Facilities ***and Support Services***~~[Management]~~. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon warrant of the secretary of finance and administration. The fund shall be used for carrying out the functions of the Division of Historic Properties. The Division of Historic Properties may publish written material pertaining to historic properties of the state and charge and collect a reasonable fee for any such publications. The proceeds shall be deposited to the credit of the fund and after paying the costs of publication, the balance of the proceeds shall be used for purposes specified in KRS 11.027.

Section 27. KRS 11.027 is amended to read as follows:

(1) The commission shall meet at least every six (6) months and when called into session by the chairman at the request of the Governor, of any two (2) or more members of the commission, or on his own motion.

(2) The commission shall examine the Executive Mansion, the Old Governor's Mansion, and the New State Capitol at least once each year, and the commission shall have authority over any construction, repairs, structural restoration, or renovation of these properties. The commission shall supervise the maintenance of a current inventory of all furnishings in the properties and the inventory shall be maintained by the Division of Historic Properties in the Department for Facilities ***and Support Services***~~[Management]~~ in the Finance and Administration Cabinet. The Division of Historic Properties shall maintain inventory records relating to all such property of the state and no such property shall be disposed of except upon recommendation of the director of the Division of Historic Properties with advice of the Historic Properties Advisory Commission. The proceeds realized from the sale of any items shall be deposited in the historic properties endowment fund, established by KRS 11.026.

(3) The commission shall recommend, from time to time, on the needs for furnishings, maintenance, repair, or renovation of the Executive Mansion, the Old Governor's Mansion, and the New State Capitol; and the Department for Facilities ***and Support Services***~~[Management]~~ in the Finance and Administration Cabinet shall, from funds available, take the action recommended. The commission shall have final authority over articles placed in the properties and moneys spent on these buildings. The commission shall develop criteria for this display of objects on and for the use of the public areas of the basement and first and second floors of the New State Capitol and shall be consulted by the director of the Division of Historic Properties before objects are accepted for or removed from permanent display in the Capitol.

(4) The commission shall provide coordination and make arrangements for an orderly transition between outgoing and incoming chief executives.

Section 28. KRS 11.068 is amended to read as follows:

(1) There is created an agency of state government known as the Office of State Budget Director. The office shall be attached

for administrative purposes to the Office of the Governor.

(2) The office shall include the following major organizational units:

(a) The Office of State Budget Director, headed by the state budget director. The state budget director shall be appointed by the Governor pursuant to KRS 11.040 and shall serve, under direction of the Governor, as state budget director and secretary of the state planning committee. The office shall include such principal assistants and supporting personnel appointed pursuant to KRS Chapter 12 as may be necessary to carry out the functions of the office. The office shall have such duties, rights, and responsibilities as are necessary to perform, without being limited to, the following functions:

1. Functions relative to the preparation, administration, and evaluation of the executive budget as provided in KRS Chapters 45 and 48 and in other laws, including but not limited to, capital construction budgeting, evaluation of state programs, program monitoring, financial and policy analysis and issue review, and executive policy implementation and compliance;

2. Continuous evaluation of statewide management and administrative procedures and practices, including but not limited to, organizational analysis and review, economic forecasting, technical assistance to state agencies, forms control, and special analytic studies as directed by the Governor; and

3. Staff planning functions of the state planning committee and evaluation of statewide management and administrative practices and procedures.

(b) Governor's Office for Policy and Management, headed by the state budget director, who shall report to the Governor. The state budget director shall maintain staff employed pursuant to KRS Chapter 18A sufficient to carry out the functions of the office relating to state budgeting as provided in paragraph (a) of this subsection and state planning as provided in KRS Chapter 147, review of administrative regulations proposed by executive agencies prior to filing pursuant to KRS Chapter 13A and such other duties as may be assigned by the Governor.

(c) Governor's Office for Policy Research, headed by the state budget director. The Governor's Office for Policy Research shall assist the state budget director in providing policy research data, information, and analysis to the Governor on public policy issues that impact the Commonwealth. The state budget director shall identify and direct the research to be completed and provided by the office. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office.

(d) Governor's Office for Economic Analysis, headed by the state budget director, who shall report to the Governor. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office. The Governor's Office for Economic Analysis shall carry out the revenue estimating and economic analysis functions and responsibilities, including but not limited to the functions and responsibilities assigned to the Office of State Budget Director by KRS 48.115, 48.117, 48.120, 48.400, and 48.600. The Governor's Office for Economic Analysis shall perform the tax administrative function of using tax data to provide the ***Department of*** Revenue [~~Cabinet~~]with studies, projections, statistical analyses, and any other information that will assist the ***Department of*** Revenue[~~ Cabinet~~] in performing its tax administrative functions.

Section 29. KRS 11.200 is amended to read as follows:

(1) There is created the Commission on Small Business Advocacy. The commission shall be a separate administrative body of state government within the meaning of KRS 12.010(8).

(2) It shall be the purpose of the Commission on Small Business Advocacy to:

(a) Address matters of small business as it relates to government affairs;

(b) Promote a cooperative and constructive relationship between state agencies and the small business community to ensure coordination and implementation of statewide strategies that benefit small business in the Commonwealth;

(c) Coordinate and educate the small business community of federal, state, and local government initiatives of value and importance to the small business community;

(d) Create a process by which the small business community is consulted in the development of public policy as it affects their industry sector;

(e) Aid the small business community in navigating the regulatory process, when that process becomes cumbersome, time consuming, and bewildering to the small business community; and

(f) Advocate for the small business, as necessary when regulatory implementation is overly burdensome, costly, and harmful to the success and growth of small businesses in the Commonwealth.

(3) The Commission on Small Business Advocacy shall consist of thirty-one (31) members:

(a) The Governor, or the Governor's designee;

(b) The secretaries of the following cabinets, or their designees:

1. Economic Development;

2. Natural Resources and Environmental Protection;

3. ***Finance and Administration***[~~Revenue~~]; and

4. Transportation;

(c) The state director of the Small Business Development Centers in Kentucky;

(d) One (1) representative of each of the following organizations, appointed by the Governor from a list of three (3) nominees submitted by the governing bodies of each organization:

1. Associated Industries of Kentucky;
2. National Federation of Independent Business;
3. Kentucky Chamber of Commerce;
4. Kentucky Federation of Business and Professional Women's Club, Inc.;
5. Kentucky Retail Federation;
6. Professional Women's Forum;
7. Kentuckiana Minority Supplier Development Council;
8. Greater Lexington Chamber of Commerce;
9. Lexington chapter of the National Association of Women Business Owners;
10. Greater Louisville, Inc.;
11. Louisville chapter of the National Association of Women Business Owners;
12. Northern Kentucky Chamber of Commerce, Inc.;
13. Northern Kentucky - Greater Cincinnati chapter of the National Association of Women Business Owners;
14. Kentucky Association of Realtors;
15. Henderson - Henderson County Chamber of Commerce;
16. Kentucky Coal Council;
17. Kentucky Farm Bureau Federation; and
18. Kentucky Homebuilders Association;

(e) One (1) representative from small business from each of the following areas, appointed by the Governor:

1. A city of the second class;
2. A city of the third class;
3. A city of the fourth class; and
4. A city of the fifth class;

(f) One (1) representative who is a small business owner served by each of the following organizations, appointed by the Governor:

1. The Center for Rural Development; and
2. Community Ventures Corporation; and

(g) One (1) representative who is a small business owner under the age of thirty-five (35), appointed by the Governor.

(4) The terms of all members appointed by the Governor shall be for four (4) years, except that the original appointments shall be staggered so that seven (7) appointments shall expire at two (2) years, seven (7) appointments shall expire at three (3) years, and seven (7) appointments shall expire at four (4) years from the dates of initial appointment.

(5) The Governor shall appoint the chair and vice chair of the commission from the list of appointed members.

(6) The commission shall meet quarterly and at other times upon call of the chair or a majority of the commission.

(7) A quorum shall be a majority of the membership of the commission.

(8) Members of the commission shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(9) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the commission and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(10) The Commission on Small Business Advocacy shall be an independent agency attached to the Office of the Governor.

Section 30. KRS 11.507 is amended to read as follows:

(1) The roles and duties of the ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall include but not be limited to:

(a) Providing technical support and services to all executive agencies of state government in the application of information technology;

(b) Assuring compatibility and connectivity of Kentucky's information systems;

(c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;

(d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture, including implementing necessary management processes to assure full compliance with those directions, standards, and architecture. This specifically includes, but is not limited to, directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies;

(e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;

(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;

(g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;

(h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The ***executive director***[~~chief information officer~~] is authorized to grant or withhold approval to initiate these projects;

(i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;

(j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;

(m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;

(n) Providing staff support and technical assistance to the Geographic Information Advisory Council ***and***[~~,~~] the Kentucky Information Technology Advisory Council[~~, and the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky~~]; and

(o) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.

(2) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology may:

(a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the ***executive director***[~~chief information officer~~] finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;

(b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102;

(c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;

(d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102;

(e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;

(f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable; and

(g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:

1. New and emerging technologies as approved by the ***executive director***[~~chief information officer~~] or her or

his designee; or

2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.

(3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

Section 31. KRS 11.509 is amended to read as follows:

(1) To accomplish the work of the ***Commonwealth Office of***~~[Governor's Office for]~~ Technology, all organizational units and administrative bodies, as defined in KRS 12.010, and all members of the state postsecondary education system, as defined in KRS 164.001, shall furnish the ***Commonwealth Office of***~~[Governor's Office for]~~ Technology necessary assistance, resources, information, records, and advice as required.

(2) The provisions of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 shall not be construed to grant any authority over the judicial or legislative branches of state government, or agencies thereof, to the ***Commonwealth Office of***~~[Governor's Office for]~~ Technology.

(3) The information, technology, personnel, agency resources, and confidential records of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System shall be excluded from the provisions of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 and shall not be under the authority of the ***Commonwealth Office of***~~[Governor's Office for]~~ Technology.

Section 32. KRS 11.513 is amended to read as follows:

(1) There is hereby created the Kentucky Information Technology Advisory Council to:

(a) Advise the ***executive director of the Commonwealth Office of Technology***~~[chief information officer for the Commonwealth]~~ on approaches to coordinating information technology solutions among libraries, public schools, local governments, universities, and other public entities; and

(b) Provide a forum for the discussion of emerging technologies that enhance electronic accessibility to various publicly funded sources of information and services.

(2) The Kentucky Information Technology Advisory Council shall consist of:

(a) The state budget director or a designee;

(b) The state librarian or a designee;

(c) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the Council on Postsecondary Education;

(d) Three (3) citizen members from the private sector with information technology knowledge and experience appointed by the Governor;

(e) Two (2) representatives of local government appointed by the Governor;

(f) One (1) representative from the area development districts appointed by the Governor from a list of names submitted by the executive directors of the area development districts;

(g) One (1) member of the media appointed by the Governor;

(h) The executive director of the Kentucky Authority for Educational Television;

(i) The chair of the Public Service Commission or a designee;

(j) Two (2) members of the Kentucky General Assembly, one (1) from each chamber, selected by the Legislative Research Commission;

(k) One (1) representative of the Administrative Office of the Courts;

(l) One (1) representative from the public schools system appointed by the Governor;

(m) One (1) representative of the Kentucky Chamber of Commerce; and

(n) The ***executive director of the Commonwealth Office of Technology***~~[chief information officer for the Commonwealth]~~.

(3) Appointed members of the council shall serve for a term of two (2) years. Members who serve by virtue of an office shall serve on the council while they hold the office.

(4) Vacancies on the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(5) Members shall receive no compensation but shall receive reimbursement for actual and necessary expenses in accordance with travel and subsistence requirements established by the Finance and Administration Cabinet.

Section 33. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the ***executive director of the Commonwealth Office of Technology***~~[chief information officer]~~ on issues relating to geographic information and

geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet or his designee;
5. The ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~] or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Development Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The ***chair shall be appointed by the Governor***[~~council shall select from its membership a chairman and any other officers it considers essential~~]. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the

Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 34. KRS 11.5161 is amended to read as follows:

The Kentucky Wireless Interoperability Executive Committee is hereby created to address communications interoperability, a homeland security issue which is critical to the ability of public safety first responders to communicate with each other by radio. The committee shall advise and make recommendations to the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~] regarding strategic wireless initiatives to achieve public safety voice and data communications interoperability.

Section 35. KRS 11.5163 is amended to read as follows:

(1) The ***executive director***[~~chief information officer~~] shall establish and implement a statewide public safety interoperability plan. This plan shall include the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The ***executive director***[~~chief information officer~~] shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The ***executive director***[~~chief information officer~~] shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the ***executive director***[~~chief information~~] officer for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.

(3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the ***executive director***[~~chief information officer~~], the Governor's Office for Policy and Management, and the General Assembly.

(4) The ***executive director***[~~chief information officer~~] shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.

(5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the ***executive director***[~~chief information officer~~] who shall serve as chair;

(b) The executive director of the Office ***of***[~~for~~] Infrastructure Services, ***Commonwealth Office of***[~~Governor's Office for~~] Technology;

(c) The ***executive director of the Office of the 911 Coordinator***[~~administrator of the Commercial Mobile Radio~~

~~Service Emergency Telecommunications Board~~];

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Division of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office for Security Coordination, Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(6) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(7) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(8) The committee shall be attached to the ***Commonwealth Office of***[~~Governor's Office for~~] Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(9) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(10) The committee may establish additional working groups as determined by the committee.

Section 36. KRS 11.517 is amended to read as follows:

(1) The Geographic Information Advisory Council's duties shall include the following:

(a) Overseeing the development and adoption of policies and procedures related to geographic information and geographic information systems;

(b) Overseeing the development of a strategy for the implementation and funding of a statewide base map and geographic information system;

(c) Overseeing the development and recommending standards on geographic information and geographic information systems for inclusion in the statewide architecture;

(d) Overseeing the development and delivery of a statewide geographic information plan and annually reporting to the Governor, the General Assembly, the Judicial Branch, and the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~];

(e) Overseeing the development of the geographic information systems training and education plan;

(f) Overseeing the assessment of state agency plans for geographic information systems standards compliance;

(g) Overseeing the development of operating policies and procedures for the management of the council and any standing or ad hoc committees and associated advisory groups;

(h) Promoting collaboration and the sharing of data and data development, as well as other aspects of geographic information systems; and

(i) Overseeing the implementation of a pilot project to study the advantages and resources of geographic information system technology.

(2) The ***Division***[~~Office~~] of Geographic Information shall provide necessary staff support services to the council. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the council necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

Section 37. KRS 11.550 is amended to read as follows:

(1) The Telehealth Board is created and placed for administrative purposes under the ***Commonwealth Office of***[~~Governor's Office for~~] Technology. This nine (9) member board shall consist of the:

(a) Chancellor, or a designee, of the medical school at the University of Kentucky;

(b) Chancellor, or a designee, of the medical school at the University of Louisville;

(c) Commissioner, or a designee, of the Department for Public Health;

(d) ***Executive director***[~~Chief information officer~~], or a designee, of the ***Commonwealth Office of***[~~Governor's Office for~~] Technology; and

(e) Five (5) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than three (3) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.

(2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.

(3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;

(b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville, and any other site that is operating as a telemedicine or telehealth site and that demonstrates its capability to follow the board's protocols and standards;

(c) Establish protocols and standards to be followed by the training centers and rural sites; and

(d) Maintain the central link for the network with the Kentucky information highway.

(4) The board shall, following consultation with the ***Commonwealth Office of***[~~Governor's Office for~~] Technology, recommend the processes and procedures for the switching and running of the telehealth network.

(5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.

(a) Data on utilization, performance, and quality of care;

(b) Quality assurance measures, including monitoring systems;

(c) The economic impact on and benefits to participating local communities; and

(d) Other matters related to telehealth at the discretion of the board.

(6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 38. KRS 15.060 is amended to read as follows:

Upon written request of the ***Department of*** Revenue[~~ Cabinet~~], the Attorney General shall:

(1) With the assistance of the Auditor of Public Accounts and the ***Department of*** Revenue[~~ Cabinet~~], investigate the condition of any unsatisfied claim, demand, account, and judgment in favor of the Commonwealth.

(2) When he believes that any fraudulent, erroneous or illegal fee bill, account, credit, charge or claim has been erroneously or

improperly approved, allowed or paid out of the Treasury to any person, institute the necessary actions to recover the same. To this end he may employ assistants and experts to assist in examining the fee bills, accounts, settlements, credits and claims, and the books, records and papers of any of the officers of the Commonwealth.

(3) Institute the necessary actions to collect and cause the payment into the Treasury of all unsatisfied claims, demands, accounts and judgments in favor of the Commonwealth, except where specific statutory authority is given the ***Department of*** Revenue[~~ Cabinet~~] to do so.

(4) Comply with KRS 48.005, if any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any legal action, including an ex rel. action in which the Attorney General has entered an appearance or is a party under statutory or common law authority.

Section 39. KRS 15.105 is amended to read as follows:

(1) The Attorney General, with the approval of the head of the cabinet involved***,*** shall appoint assistant attorneys general for the Transportation Cabinet ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~].

(2) The assistant attorneys general and additional attorneys provided for in subsection (1) of this section shall each be a person admitted to the practice of law by the Supreme Court of this Commonwealth and shall qualify by taking the oath of office. They shall be paid out of the appropriation or other funds of the respective agency to which they are assigned.

Section 40. KRS 15A.040 is amended to read as follows:

(1) The Criminal Justice Council shall advise and recommend to the Governor and the General Assembly policies and direction for long-range planning regarding all elements of the criminal justice system. The council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall:

  (a) Make recommendations to the justice secretary with respect to the award of state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;

  (b) Conduct comprehensive planning to promote the maximum benefits of grants;

  (c) Develop model criminal justice programs;

  (d) Disseminate information on criminal justice issues and crime trends;

  (e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;

  (f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;

  (g) Provide technical assistance to all criminal justice agencies;

  (h) Review and evaluate proposed legislation affecting criminal justice; and

  (i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.

(2) Membership of the Criminal Justice Council shall consist of the following:

  (a) The secretary of the Justice Cabinet or his designee;

  (b) The director of the Administrative Office of the Courts or his designee;

  (c) The Attorney General or his designee;

  (d) Two (2) members of the House of Representatives as designated by the Speaker of the House;

  (e) Two (2) members of the Senate as designated by the President of the Senate;

  (f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;

  (g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;

  (h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;

  (i) The public advocate or his designee;

  (j) The president of the Kentucky Sheriffs' Association;

  (k) The commissioner of state police or his designee;

  (l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;

  (m) The president of the Kentucky Association of Chiefs of Police;

(n) A member of the Prosecutors Advisory Council as chosen by the council;

(o) The Chief Justice or a justice or judge designated by him;

(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;

(q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;

(r) One (1) member of the Circuit Clerks' Association;

(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;

(t) One (1) District Judge, designated by the Chief Justice;

(u) One (1) Circuit Judge, designated by the Chief Justice;

(v) One (1) Court of Appeals Judge, designated by the Chief Justice;

(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders;

(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor;

(y) The commissioner of the Department of Juvenile Justice or his designee;

(z) The commissioner of the Department of Corrections, or his designee;

(aa) The commissioner of the Department of Criminal Justice Training or his designee; and

(ab) The ***executive director of the Commonwealth Office of Technology***[~~Governor's chief information officer~~].

(3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.

(4) The council shall meet at least once every three (3) months.

(5) The council may hold additional meetings:

(a) On the call of the chairman;

(b) At the request of the Governor to the chairman; or

(c) At the written request of the members to the chairman, signed by a majority of the members.

(6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.

(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.

(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:

(a) Uniform Criminal Justice Information System committee;

(b) Committee on sentencing; and

(c) Penal Code committee.

(9) The council's administrative functions shall be performed by a full-time executive director, who shall also serve as the executive director of the office of the Criminal Justice Council, appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

Section 41. KRS 16.220 is amended to read as follows:

(1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. The Kentucky State Police shall transfer firearms that are to be sold to the Department of Finance, Division of Surplus ***Properties***[~~Property~~], for sale. Proceeds of the sale shall be transferred to the account of the Department for Local Government for use as provided in subsection (3) of this section. Prior to the sale of any firearm, the Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.

(2) The Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The Kentucky State Police shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.

(3) The proceeds of firearms sales shall be utilized by the Department for Local Government to provide grants to city, county, charter county, and urban-county police departments, university safety and security departments organized pursuant to KRS 164.950 and sheriff's departments for the purchase of body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments or for the purchase of firearms or ammunition. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.

(4) The Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act, and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.

Section 42. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies and the courts. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set by the ***Commonwealth Office of***[~~Governor's Office for~~] Technology are required, the ***executive director of the Commonwealth Office of Technology***[~~Commonwealth's chief information officer~~] shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the ***executive director of the Commonwealth Office of Technology***[~~Governor's chief information officer~~], who shall chair the committee.

(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.

(5) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.

(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.

(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.

(8) All criminal justice agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(9) The committee shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the committee.

(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the committee.

(11) Any criminal justice agency or officer that does not participate in the criminal justice information system may be denied

access to state and federal grant funds.

Section 43. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky Horse Racing Authority;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education;

(aa) ***Executive director of the Commonwealth Office of Technology***[~~Chief information officer of the Commonwealth~~];

(ab) Employees of the Kentucky Commission on Community Volunteerism and Service; and

(ac) Federally funded time-limited employees as defined in KRS 18A.005.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

(7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

(8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

Section 44. KRS 29A.040 is amended to read as follows:

(1) A list of all persons over the age of eighteen (18) and holding valid driver's licenses which were issued in the county, of the names and addresses of all persons filing Kentucky resident individual income tax returns which show an address in the county, and of all persons registered to vote in the county shall constitute a master list of prospective jurors for a county.

(2) The Administrative Office of the Courts shall at least annually acquire an electronic copy of the driver's license list from the Transportation Cabinet, an electronic copy of the tax roll described in subsection (1) of this section from the ***Department of*** Revenue[~~Cabinet~~], and an electronic copy of the voter registration lists from the State Board of Elections. In addition, the Administrative Office of the Courts shall at least annually acquire a listing of deceased persons from the Department of Vital Statistics. The Transportation Cabinet, the ***Department of*** Revenue[~~Cabinet~~], the State Board of Elections, and the Department of Vital Statistics and those public officers or employees having custody, possession, or control of any of the lists required under this section shall annually furnish a copy of the list to the Administrative Office of the Courts without charge.

(3) The Administrative Office of the Courts shall merge the lists required by subsections (1) and (2) of this section in a manner designed to create an accurate listing of all persons eligible for jury service. The Administrative Office of the Courts may purge names from the master list upon reasonable evidence of death, change of state residence, change of county residence, or any other reason causing a person to be ineligible for jury service as found in KRS 29A.080.

(4) Any person who comes into possession of the Kentucky income tax names and addresses as provided in this section shall be bound by the confidentiality provisions of KRS 131.190.

Section 45. KRS 40.540 is amended to read as follows:

(1) If a claim is approved by the administrator or finally approved upon resort to the board of review, the administrator shall promptly certify to the secretary of the Finance and Administration Cabinet the names and addresses of persons found entitled to be paid, as shown in the application, and the amount payable to each.

(a) A copy of each such certificate shall be sent to the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~], who shall promptly ascertain from the records of his agency whether any person proposed to be paid a bonus is delinquent in the payment of any tax liability to the Commonwealth. No delinquency shall be deemed to exist as to any asserted tax liability which is the subject of a bona fide dispute. If any delinquency be found to exist, the secretary of revenue shall, within three (3) working days after this receipt of the certificate, furnish the details thereof to the secretary of finance and administration; and if no advice of tax delinquency is received by the secretary of finance and administration before the end of the fourth working day after his receipt of certification from the administrator, he shall, for the purposes of KRS 40.410 to 40.560, conclusively presume that no delinquency of tax liability to the Commonwealth exists, but such presumption shall apply only to the existence or absence of a set-off by the Commonwealth against a certified claim for a bonus, and shall not alter the facts as between the Commonwealth and any taxpayer.

(b) If no advice of tax delinquency is received within such allowed time, the secretary of finance and administration may approve payment in accordance with the certificate of the administrator, and may immediately draw a warrant on the State Treasury for a check in payment, except that no warrant shall be drawn by the secretary until sufficient funds have become available to pay the bonus authorized by KRS 40.410 to 40.560.

(c) Upon receipt of such warrant the State Treasurer shall issue a check in accordance therewith payable from funds made available for payment of the bonus authorized by KRS 40.410 to 40.560, and the same shall promptly be mailed to the payee thereof at the address shown in the certificate.

(2) If the secretary of finance and administration shall, within the allowed time, receive advice from the secretary of revenue of the existence of a delinquency on the part of any person having an approved claim for a bonus, as to any tax liability to the Commonwealth, the secretary of finance and administration shall note the same on the certificate of the administrator, withhold payment, and forthwith send to the claimant by registered mail a notice of the asserted delinquency, and the amount thereof, and that it is proposed that the same be set off against the bonus payment.

(a) If the secretary of finance and administration receives no protest in his office within ten (10) working days after recording such notice, he shall conclusively presume that the proposed set-off is just, shall apply the amount thereof in reduction or extinguishment of the payment certified by the administrator, and shall advise the secretary of revenue of the amount set off against the bonus, which advice shall be noted by the secretary of revenue on the records of his office as a credit upon the delinquent tax liability.

(b) If the tax set-off does not consume the entire amount of the bonus as certified by the administrator, the secretary shall draw a warrant upon the State Treasury for a check in the amount of the remainder, and upon receiving such check from the State Treasurer, shall send the same, together with advice of the set-off, by mail, to the payee at the address shown in the certificate of the director.

(3) If the secretary of finance and administration receives from the claimant a protest of the asserted tax delinquency, within the allowed time, the secretary shall withhold approval for payment, and shall refer the protest to the secretary of revenue for disposition.

(4) If a tax set-off is made, and the claimant shall assert error with regard thereto, the exclusive remedy shall be by seeking refund from the secretary of revenue.

Section 46. KRS 41.070 is amended to read as follows:

(1) Unless otherwise expressly provided by law, no receipts from any source of state money or money for which the state is responsible shall be held, used, or deposited in any personal or special bank account, temporarily or otherwise, by any agent or employee of any budget unit, to meet expenditures or for any other purpose. All receipts of any character of any budget unit, all revenue collected for the state, and all public money and dues to the state shall be deposited in state depositories in the most prompt and cost-efficient manner available. However in the case of state departments or agencies located outside Frankfort, and all state institutions, the Finance and Administration Cabinet may permit temporary deposits to be made to the accounts maintained by the agency, department, or institution in a bank which has been designated as a depository for state funds for a period not to exceed thirty (30) days, and may require that the money be forwarded to the State Treasury at the time and in the manner and form prescribed by the cabinet. Nothing in this section shall be construed as authorizing any representative of any agency, department, or institution to enforce or cash, even for the purpose of a deposit, any check or other instrument of value payable to the Commonwealth or any agency thereof.

(2) Each agency depositing its receipts directly with the State Treasurer shall do so in the manner approved by the State Treasurer as agent in charge of public fund deposits.

(3) The ***Department of*** Revenue[~~ Cabinet~~] may deposit receipts to the credit of the State Treasury directly with a depository designated by the Treasurer and utilized by the Commonwealth for its primary banking services. The State Treasurer, with the approval of the Finance and Administration Cabinet, may authorize other agencies to deposit receipts directly with a depository designated by the Treasury to the credit of the State Treasury if the Treasurer prescribes the manner in which the deposit is to be made, and the forms and reports to be filed with the Treasury Department. The Finance and Administration Cabinet shall prescribe the forms and reports to be filed with it when this type of deposit is made.

(4) Each department, agency, or other budget unit which receives funds to be deposited into the State Treasury shall maintain records to report adequately each amount received, from whom received, and date received. Agency records shall be easily

reconcilable with the information forwarded to the State Treasurer.

Section 47. KRS 41.360 is amended to read as follows:

(1) Where any officer or employee of the state government or of any agency of the state government has authorized the State Treasurer to deduct from his compensation as such officer or employee a sum or sums for the purchase of United States Series E savings bonds, and thereafter, for any cause, has departed from such office or employment leaving unclaimed in the hands of the State Treasurer a sum arising from such deduction not equal to the amount for which such a bond may be purchased, the State Treasurer shall, within ninety (90) days after the date of the last deduction, mail to such officer or employee, at his last-known address as shown on the records of the Personnel Cabinet, a notice stating the sum held by the State Treasurer for such officer or employee, and requesting that he make claim for the same within six (6) months thereafter. A duplicate of such notice, addressed to the officer or employee, shall at the same time be delivered to the state agency of which the person was an officer or employee. If, at the expiration of six (6) months from the date of mailing the letter, the officer or employee has not made claim for the sum due him, the sum shall, as of July 1 following the expiration of such six-months' period, be presumed abandoned.

(2) On or before September 1 of each year the State Treasurer shall report to the ***Department of*** Revenue[~~ Cabinet~~], in duplicate, a list of the sums presumed to be abandoned as of the preceding July 1, giving the name of the officer or employee and his last-known address. The ***Department of*** Revenue[~~ Cabinet~~] shall cause the report to be posted and published as provided in KRS 393.110. If, by November 15 following such posting and publication, the sums involved have not been claimed, the State Treasurer shall place the sums to the credit of the general fund in the State Treasury and shall report that fact to the ***Department of*** Revenue[~~ Cabinet~~]. Thereafter such sums shall have the same status as other property turned over to the ***Department of*** Revenue[~~ Cabinet~~] as provided in KRS 393.110, and the rights of any person to make claim for the same shall rest upon the same principles as the rights of other claimants of property presumed to be abandoned under the provisions of KRS Chapter 393.

Section 48. KRS 42.005 is amended to read as follows:

As used in KRS 42.010, unless the context requires otherwise:

(1) "Department" means ***a***[~~that~~] basic unit of administrative organization of ***the Finance and Administration Cabinet***[~~state government, by whatever name called,~~] designated by statute or by statutorily authorized executive action as a "department***.***" ***A department may contain offices, divisions, or both, that report to it***;

(2) ***"Office" means a basic unit of administrative organization of the Finance and Administration Cabinet. An office may or may not report directly to the secretary of the Finance and Administration Cabinet. An office may contain offices, divisions, or both, that report to it;***

(3) "Division" means a major branch of a department***, or office*** established by statute or by statutorily authorized administrative action;

(4)[~~(3)~~] "Administrative body" includes authority, board, bureau, interstate compact, commission, committee, conference, council,[~~ office~~] and any other form or organization in the executive branch of government, but does not include ***"office,"*** "department," "program cabinet" or "division";

(5)[~~(4)~~] "Program cabinet" means a group of departments, or departments and commissions, ***or departments and offices,*** or other administrative bodies, designated by statute or statutorily authorized executive action as a "program cabinet."

Section 49. KRS 42.010 is amended to read as follows:

As used in ***Sections 9, 10, and 17 of this Act***[~~KRS 42.023 to 42.025~~], unless the context requires otherwise, "state agency" means any state administrative body, department or division as defined by KRS 42.005.

Section 50. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

(1) State Property and Buildings Commission;

(2) [~~Kentucky Pollution Abatement Authority;~~

~~(3)~~]Kentucky Savings Bond Authority;

(3)[~~(4)~~] County Officials Compensation Board;

(4)[~~(5)~~] Kentucky Turnpike Authority;

(5)[~~(6)~~] State Investment Commission;

(6)[~~(7)~~] Kentucky Housing Corporation;

[~~(8) Governmental Services Center;~~]

(7)[~~(9)~~] Kentucky Tobacco Settlement Trust Corporation;

(8)[~~(10)~~] Kentucky River Authority; and

(9)[~~(11)~~] Eastern Kentucky Exposition Center Corporation.

Section 51. KRS 42.018 is amended to read as follows:

[~~(1) The Office of Management and Budget established within the Office of the Secretary by KRS 42.013 shall be responsible for the fiscal, personnel, and payroll functions of the cabinet.~~

~~(2)~~]The Office of Capital Plaza Operations[~~ established by KRS 42.014~~] shall:

(1)[~~(a)~~]Be responsible for the operation of the Capital Plaza Civic Center and related facilities in Frankfort, Kentucky; and

(2)[~~(b)~~] Provide administrative support to the Capital Development Committee created by KRS 45.001.

Section 52. KRS 42.409 is amended to read as follows:

As used in KRS 42.410 and 45.760, unless the context requires otherwise:

(1) "State total personal income" means the measure of all income received by or on behalf of persons in the Commonwealth, as most recently published in the Survey of Current Business by the United States Department of Commerce, Bureau of Economic Analysis.

(2) "Estimated state total personal income" means the personal income figure used by the Governor's Office for Economic Analysis to generate final detailed revenue estimates.

(3) "Total revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended.

(4) "Anticipated total revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended.

(5) "Available revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(6) "Anticipated available revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(7) "Total assessed value of property" means state total net assessed value of property for taxes due, as obtained from the ***Department of*** Revenue[~~ Cabinet~~].

(8) "Per capita" means per unit of population, where population figures are the most recent available from the University of Louisville, Kentucky State Data Center.

(9) "Appropriation-supported debt service" means the amount of an appropriation identified to be expended for debt service purposes in the executive budget recommendation, and the amount of an appropriation expended for debt services in a completed fiscal year.

(10) "Appropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is appropriated by the General Assembly.

(11) "Nonappropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is not appropriated by the General Assembly.

(12) "Statutorily dedicated receipts" means revenues credited to the general fund and road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account, which are required by an enacted statute to be used for a specific purpose. Statutorily dedicated receipts include, but are not limited to, the following:

   (a) Receipts credited to the general fund which are subject to KRS 42.450 to 42.495, KRS 278.130 to 278.150, or KRS 350.139;

   (b) Receipts credited to the road fund which are subject to KRS 175.505, KRS 177.320, KRS 177.365 to 177.369, KRS 177.9771 to 177.979, KRS 186.531, or KRS 186.535; and

   (c) Receipts credited to a restricted agency fund account in accordance with any applicable statute.

(13) "True interest cost" means the bond yield according to issue price without a reduction for related administrative costs, and is the same figure as the arbitrage yield calculation described in the United States Tax Reform Act of 1986.

Section 53. KRS 42.455 is amended to read as follows:

(1) There is established within the Department for Local Government a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following, but in no event shall grants obtained under this program be used for expenses related to administration of government:

   (a) Public safety, including law enforcement, fire protection, ambulance service, and other related services;

   (b) Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;

(c) Public transportation, including mass transit systems, streets, and roads;

(d) Health;

(e) Recreation;

(f) Libraries and educational facilities;

(g) Social services for the poor, the elderly, and individuals with disabilities;

(h) Industrial and economic development;

(i) Vocational education;

(j) Workforce training; and

(k) Secondary wood industry development.

(3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(5) The Department for Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(6) The Department for Local Government shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The department shall submit an annual report to the Governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(7) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department for Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of highways, roads, and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.

(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads, and streets shall file with the Transportation Cabinet such information and at intervals as the department shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

(9) The ***Department of*** Revenue[~~ Cabinet~~] shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; if the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

Section 54. KRS 42.500 is amended to read as follows:

(1) There shall be a State Investment Commission composed of the Governor who shall be chairman; the State Treasurer who shall be vice chairman and serve as chairman in the absence of the Governor; the secretary of the Finance and Administration Cabinet; and two (2) persons appointed by the Governor.

(2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.

(3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(4) The Governor, State Treasurer, and secretary of the Finance and Administration Cabinet shall each have the authority to designate, by an instrument in writing over his or her signature and filed with the secretary of the commission as a public record of the commission, an alternate with full authority to:

(a) Attend in the member's absence, for any reason, any properly convened meeting of the commission; and

(b) Participate in the consideration of, and vote upon, business and transactions of the commission.

Each alternate shall be a person on the staff of the appointing member or in the employ of the appointing member's state agency or department.

(5) Any designation of an alternate may, at the appointing member's direction:

(a) Be limited upon the face of the appointing instrument to be effective for only a specific meeting or specified business;

(b) Be shown on the face of the appointing instrument to be a continuing designation, for a period of no more than four (4) years, whenever the appointing member is unable to attend; or

(c) Be revoked at any time by the appointing member in an instrument in writing, over his or her signature, filed with the secretary of the commission as a public record of the commission.

(6) Any person transacting business with, or materially affected by, the business of the commission may accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of the designation, and, if it is of a continuing nature, whether and when the designation has been revoked. The joint certificate shall be made and delivered to the person requesting it within a reasonable time after it has been requested in writing, with acceptable identification of the business or transaction to which it refers and the requesting person's interest in the business or transaction.

(7) Any three (3) persons who are members of the commission or alternates authorized under subsections (4) and (5) of this section shall constitute a quorum and may, by majority vote, transact any business of the commission. Any three (3) members of the commission may call a meeting.

(8) The provisions of KRS 61.070 shall not apply to members of the commission.

(9) The commission shall have authority and may, if in its opinion the cash in the State Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:

(a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

1. United States Treasury;
2. Export-Import Bank of the United States;
3. Farmers Home Administration;
4. Government National Mortgage Corporation; and
5. Merchant Marine bonds;

(b) Obligations of any corporation of the United States government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;
2. Federal Farm Credit Banks;
    a. Bank for Cooperatives;
    b. Federal Intermediate Credit Banks; and
    c. Federal Land Banks;
3. Federal Home Loan Banks;
4. Federal National Mortgage Association; and
5. Tennessee Valley Authority obligations;

(c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;

(d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(e) Commercial paper rated in the highest category by a nationally recognized rating agency;

(f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(g) United States denominated corporate, Yankee, and Eurodollar securities, excluding corporate stocks, issued by foreign and domestic issuers, including sovereign and supranational governments, rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(h) Asset-backed securities rated in the highest category by a nationally recognized rating agency; and

(i) Shares of mutual funds, not to exceed ten percent (10%) of the total funds available for investment as described in subsection (9) of this section, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under Federal Investment Company Act of 1940, as amended;
2. The management company of the investment company shall have been in operation for at least five (5) years;
3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to

this section; and

(j) State and local delinquent property tax claims which upon purchase shall become certificates of delinquency secured by interests in real property not to exceed twenty-five million dollars ($25,000,000) in the aggregate. For any certificates of delinquency that have been exonerated pursuant to KRS 132.220(5), the ***Department of*** Revenue~~[Cabinet]~~ shall offset the loss suffered by the Finance and Administration Cabinet against subsequent local distributions to the affected taxing districts as shown on the certificate of delinquency.

(10) The State Investment Commission shall promulgate administrative regulations for the investment and reinvestment of state funds in shares of mutual funds, and the regulations shall specify:

(a) The long and short term goals of any investment;

(b) The specification of moneys to be invested;

(c) The amount of funds which may be invested per instrument;

(d) The qualifications of instruments; and

(e) The acceptable maturity of investments.

(11) Any investment in obligations and securities pursuant to subsection (9) of this section shall satisfy this section if these obligations are subject to repurchase agreements, provided that delivery of these obligations is taken either directly or through an authorized custodian.

(12) Income earned from investments made pursuant to this section shall accrue to the credit of the investment income account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when the donor shall have designated the use to which the interest shall be placed. Except as otherwise provided by law, or by the obligations and covenants contained in resolutions and trust indentures adopted or entered into for state bond issues, interest earned from the investment of moneys appropriated to the capital construction accounts, trust and agency accounts, and trust and agency revolving accounts shall accrue to the capital construction investment income account. If the total general fund revenue receipts are less than the total revenue estimates for the general fund under KRS 48.120 and 48.130, the secretary of the Finance and Administration Cabinet, upon the recommendation of the state budget director, may direct the transfer of excess unappropriated capital construction investment income to the general fund investment income account. The amount of the transfer shall not exceed the amount of the shortfall in general fund revenues. If the capital construction investment income is less than that amount appropriated by the General Assembly, the secretary of the Finance and Administration Cabinet may, upon recommendation of the state budget director, direct the transfer of excess unappropriated general fund investment income to the capital construction investment income account. The transfer of general fund investment income revenues to the capital construction investment income account shall be made only when the actual general fund revenues are in excess of the revenue estimates under KRS 48.120 and shall be limited to the amount of the excess general fund revenues. The amount of the transfer shall not exceed the amount of the shortfall in the capital construction fund revenues.

(13) The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

(14) The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the administrative regulations mandated by KRS 42.525.

(15) Each member of the State Investment Commission, with the exception of the Governor, shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the State Treasurer.

Section 55. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the Office of the Controller. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; Kentucky Community and Technical College System; Kentucky Housing Corporation;~~[Kentucky Pollution Abatement Authority;]~~ Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; the Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 56. KRS 42.560 is amended to read as follows:

(1) There is established in the Treasury of the Commonwealth a trust fund to be known as the "Energy Assistance Trust Fund" referred to in KRS 42.560 to 42.572 as the "trust fund."

(2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect, any moneys as may be appropriated by the general fund, and any investment interest earned on the fund.

(3) The fund shall be managed by the state Office of Financial Management ***within the Office of the Controller*** and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund and all accumulated interest shall be disbursed over a period of time not exceeding ten (10) years from February 19, 1988. Interest accumulated during the 1987-88 fiscal year shall immediately be available for disbursement. Fifty thousand dollars ($50,000) of the interest shall be allocated to the Legislative Research Commission for consultant costs for a study of energy conservation and weatherization programs as directed by the 1988 General Assembly. The remainder of the accumulated interest shall be made available to the Cabinet for Families and Children with fifty percent (50%) of the interest allocated to weatherization services to low-income households and fifty percent (50%) of the interest allocated to low-income energy assistance services. The funds to be available for expenditure in any fiscal year shall be appropriated by the General Assembly from the trust fund as provided in KRS 48.300.

Section 57. KRS 42.650 is amended to read as follows:

(1) The ***Division***[~~Office~~] of Geographic Information is hereby established in the Office of ***Enterprise Information Technology Policy and Planning within the Commonwealth Office of Technology in***[~~the Secretary of~~] the Finance and Administration Cabinet.

(2) The ***Division***[~~Office~~] of Geographic Information shall be headed by ***a division***[~~an executive~~] director, whose appointment is subject to KRS 12.050. The ***division***[~~executive~~] director may employ personnel, pursuant to the provisions of KRS Chapter 18A, as required to perform the functions of the office.

(3) The ***division***[~~office~~] may solicit, receive, and consider proposals for funding from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation. The ***division***[~~office~~] may also solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance.

(4) The ***division***[~~office~~] shall:

(a) Establish a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(b) Coordinate multiagency geographic information system projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(c) Provide access to both consulting and technical assistance, and education and training, on the application and use of geographic information technologies to state and local agencies;

(d) Maintain, update, and interpret geographic information and geographic information systems standards, under the direction of the council;

(e) Provide geographic information system services, as requested, to agencies wishing to augment their geographic information system capabilities;

(f) In cooperation with other agencies, evaluate, participate in pilot studies, and make recommendations on geographic information systems hardware and software;

(g) Assist the council with review of agency information resource plans and participate in special studies as requested by the council;

(h) Provide staff support and technical assistance to the Geographic Information Advisory Council; and

(i) Prepare proposed legislation and funding proposals for the General Assembly which will further solidify coordination and expedite implementation of geographic information systems.

(5) The ***division***[~~office~~] may promulgate necessary administrative regulations for the furtherance of this section.

Section 58. KRS 43.071 is amended to read as follows:

(1) The Auditor of Public Accounts shall annually audit each county clerk concerning:

(a) All receipts due from the collection of motor vehicle and motorboat registration fees, motor vehicle and motorboat licenses and other receipts due the clerk pertaining to motor vehicles and motorboats as prescribed in KRS Chapters 186, 186A and 235;

(b) All receipts due from the collection of motor vehicle usage tax as prescribed by KRS 138.460; and

(c) All receipts due from the collection of the ad valorem tax on motor vehicles and motorboats as prescribed by KRS 134.800.

These annual audits shall be completed by April 15 of the year following the year to be audited.

(2) The provisions of KRS 43.070 shall not apply to the separate and distinct duties imposed on the Auditor of Public Accounts pursuant to subsection (1) of this section. The audits specified in subsection (1) of this section shall be conducted prior to the audits mandated by KRS 43.070.

(3) Immediately upon completion of each audit, the Auditor of Public Accounts shall prepare a report of his findings noting any indebtedness to the Commonwealth. He shall furnish one (1) copy to the county clerk, one (1) copy to the secretary of the Transportation Cabinet, one (1) copy to the ***commissioner***~~[secretary]~~ of the ***Department of*** Revenue~~[Cabinet]~~ and one (1) copy to the secretary of the Natural Resources and Environmental Protection Cabinet. If the county clerk objects to any findings of indebtedness in the Auditor's report, he shall file a written response with the Auditor within ten (10) days of his receipt of the report. The Auditor shall consider the written response and within thirty (30) days of its receipt issue a final report. If the county clerk wishes to object to any findings of indebtedness contained in the final report, he shall file a request within ten (10) days of his receipt of the final report for a hearing before a three (3) member panel composed of the secretary of transportation or his designee, the ***commissioner***~~[secretary]~~ of the ***Department of*** Revenue~~[Cabinet]~~ or his designee, and the president of the Kentucky County Clerks Association or his designee. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. The majority decision of this panel shall be determinative of any indebtedness to the Commonwealth. If the county clerk wishes to appeal the decision of this panel, he shall file the appeal in the Circuit Court for the county where he serves in accordance with KRS Chapter 13B.

Section 59. KRS 44.030 is amended to read as follows:

(1) No money shall be paid to any person on a claim against the state in his own right, or as an assignee of another, when he or his assignor is indebted to the state. The claim, to the extent it is allowed, shall be credited to the account of the person so indebted, and if there is any balance due him after settling the whole demand of the state that balance shall be paid to him.

(2) The Finance and Administration Cabinet shall provide the Cabinet for Families and Children with a quarterly report of all tort claims made against the state by individuals that the Cabinet for Families and Children shall compare with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

(3) Each organizational unit and administrative body in the executive branch of state government, as defined in KRS 12.010, and the Court of Justice in the judicial branch of state government shall provide information to the State Treasurer concerning any debt it has referred to the ***Department of*** Revenue~~[Cabinet]~~ for collection under KRS 45.241.

(4) Each agency and the Court of Justice shall provide information to the State Treasurer concerning any debt referred to the ***Department of*** Revenue~~[Cabinet]~~ for collection under KRS 45.237.

Section 60. KRS 45.001 is amended to read as follows:

(1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.

(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following members or their designees:

    (a) The mayor of the city of Frankfort;
    (b) The county judge/executive of Franklin County;
    (c) The secretary of the Finance and Administration Cabinet;
    (d) The secretary of the Tourism Cabinet;
    (e) The secretary of the Education, Arts, and Humanities Cabinet;
    (f) The commissioner of the Department of Travel Development;
    (g) The executive director of the Office of Capital Plaza Operations;
    (h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;
    (i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and
    (j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

(4) The Governor shall appoint the chairperson of the committee.

(5) Members of the committee shall serve without compensation.

(6) The Office of Capital Plaza Operations~~[in the Finance and Administration Cabinet]~~ shall provide administrative support to the committee.

Section 61. KRS 45.237 is amended to read as follows:

(1) As used in KRS 45.237 to 45.239:

    (a) "Agency" means an organizational unit or administrative body in the executive branch of state government as defined in KRS 12.010;
    (b) ***"Department"***~~["Cabinet"]~~ means the ***Department of*** Revenue~~[Cabinet]~~;

(c) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;

(d) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse; and

(e) "Debt" means:

1. A sum certain which has been certified by an agency as due and owing; and

2. For the Court of Justice, "debt" means a legal debt, including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or 24A.175(4) has expired.

(2) The Finance and Administration Cabinet shall develop for the executive branch of state government a system of internal controls and preaudit policies and procedures applicable to disbursement transactions for the purpose of prevention and detection of errors or fraud and abuse prior to the issuance of a check or warrant. The initial policies and procedures shall be established and implemented no later than October 1, 2004, and shall focus first on programs or activities that expend the most federal and general fund dollars. The Finance and Administration Cabinet shall develop preaudit procedures that meet the unique needs of each agency.

(3) In establishing these systems of internal control and preaudit policies and procedures, the Finance and Administration Cabinet shall:

(a) Consult with each agency within the executive branch to ascertain its unique fraud risks;

(b) Establish policies and procedures for agency-level oversight of fraud risks, including risk assessment, risk tolerance, and management policies, and fraud-prevention processing controls;

(c) Establish systems and procedures for detecting both unintentional errors and fraudulent misrepresentations that may have occurred in vendor invoices submitted for payment, applications submitted for benefits, claims for refunds of amounts previously paid or withheld, and other disbursements;

(d) Establish systems and procedures for preventing and detecting unintentional errors and the fraudulent disbursement of funds by state government employees in the processing, approving, and paying of invoices, refunds, vouchers, benefit payments, and other disbursements; and

(e) Consult with the state Auditor of Public Accounts, the ***Commonwealth Office of***[~~Governor's Office for~~] Technology, the American Institute of Certified Public Accountants, the Association of Certified Fraud Examiners, law enforcement agencies, or any other entity with knowledge and expertise in the detection and prevention of fraud.

(4) Each agency shall diligently attempt to collect amounts paid to a vendor, provider, or recipient due to error, fraud, or abuse for sixty (60) days after the improper payment is discovered. If the improper payment has not been recovered after sixty (60) days, the agency shall certify the improper payment as a debt of the agency and shall refer all certified debts to the ***department***[~~cabinet~~].

(5) Any funds recovered by an agency within the sixty (60) day collection period allowed under subsection (4) of this section and prior to referral to the ***department***[~~cabinet~~] shall be allocated to the fund from which the improper payment was expended.

(6) Each agency shall submit annual summaries of debts due to error, fraud, or abuse, improper payments discovered, and certified debts referred to the ***department***[~~cabinet~~] to the Legislative Research Commission. These summaries shall include but not be limited to:

(a) Debts owed the Commonwealth that have been identified by the agency, in accordance with the preaudit procedures established under this section, as those resulting from error, fraud, or abuse, of either the payee or the state agency;

(b) The aggregate amount of money collected by the agency on those debts during the sixty (60) day period allowed under subsection (4) of this section; and

(c) The aggregate amount of certified debts that the agency referred to the ***department***[~~cabinet~~].

(7) Each agency shall provide information about each debt due to error, fraud, or abuse that is certified under this section to the State Treasurer for the Treasurer's action under KRS 44.030(1).

Section 62. KRS 45.238 is amended to read as follows:

(1) Debts that are certified by an agency as provided in KRS 45.237 shall be referred to the ***department***[~~cabinet~~] for collection. The ***department***[~~cabinet~~] shall be vested with all the powers necessary to collect any referred debts.

(2) For those debts deemed unfeasible or cost ineffective to pursue, the ***department***[~~cabinet~~] shall maintain written records of the debt and the reason the debt was deemed unfeasible or cost ineffective to pursue. These debts shall be written off in accordance with administrative regulations promulgated under the authority of subsection (6) of this section.

(3) All certified debts received by the cabinet after the sixty (60) day collection period allowed in KRS 45.237(4) shall be subject to interest at the tax interest rate determined under KRS 131.183, on the amount of the debt from the date the debt is certified to the ***department***[~~cabinet~~] until it is satisfied, and a twenty-five percent (25%) collection fee. The

department[~~cabinet~~] may retain the collection fee and shall deposit the interest and recovered funds in the budget reserve trust fund established in KRS 48.705, except for Medicaid benefits and funds required by law to be remitted to a federal agency.

(4) The ***commissioner***[~~secretary~~] of the ***department***[~~cabinet~~] may refer to the Attorney General any unsatisfied claim, demand, account, or judgment in favor of the Commonwealth for further civil or criminal action under KRS 15.060.

(5) (a) The ***department***[~~cabinet~~] shall report annually by October 1 to the Legislative Research Commission on all referred certified debts, including at least a summary of the debts by agency, fund type, and age, the latter compiled in the following four (4) categories:

1. Debts from ninety (90) to one hundred seventy-nine (179) days old;
2. Debts from one hundred eighty (180) to three hundred sixty-four (364) days old;
3. Debts over one (1) year old but less than three (3) years old; and
4. Debts three (3) years old or older.

(b) The annual report shall also include the collection amount of the debts in paragraph (a) of this subsection and the accounts to which the amounts are credited.

(6) The ***department***[~~cabinet~~] shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish standards that agencies shall use in determining when to write debts off the books.

Section 63. KRS 45.239 is amended to read as follows:

(1) The Court of Justice shall initiate, by October 1, 2004, fully implement by October 1, 2005, and thereafter maintain a system for tracking and identifying debts.

(2) The Court of Justice shall establish and operate a system for collecting debt.

(3) In establishing the systems required by this section, the Court of Justice shall consider technology that could assist in the accurate, timely, and efficient delivery of payments of debts.

(4) The Court of Justice, Justice Cabinet, and ***the Department of*** Revenue[~~ Cabinet~~] shall collaborate to implement a system, if feasible, to identify and collect debts in existence prior to the implementation date of the system required by subsection (1) of this section. Confidential information shared among these entities to identify and collect debts shall not be divulged to any unauthorized person. Debts collected under this subsection shall be reported annually and designated separately as part of the report required pursuant to KRS 45.238 beginning on October 1, 2005, and ending with the report filed on or before October 1, 2009.

(5) The Court of Justice, Justice Cabinet, and ***Department of*** Revenue[~~ Cabinet~~] shall collaborate to implement a system, if feasible, to identify and collect liquidated debts in existence prior to the implementation date of the system required by subsection (1) of this section. Confidential information shared among these entities to identify and collect debts shall not be divulged to any unauthorized person. Debts collected under this subsection shall be reported annually to the Legislative Research Commission beginning on October 1, 2005, and ending with the report filed on or before October 1, 2009.

Section 64. KRS 45.241 is amended to read as follows:

(1) As used in this section:

(a) "Debt" means a sum certain which has been certified by an agency as due and owing;

(b) "Liquidated debt" means a legal debt for a sum certain which has been certified by an agency as final due and owing, all appeals and legal actions having been exhausted; and for the Court of Justice means a legal debt including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or KRS 24A.175(4) has expired;

(c) "Agency" means an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010;

(d) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(e) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;

(f) "Forgivable loan agreement" means a loan agreement entered into between an agency and a borrower that establishes specific conditions, which, if satisfied by the borrower, allows the agency to forgive a portion or all of the loan; and

(g) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse.

(2) Each agency and the Court of Justice shall develop, maintain, and update in a timely manner an ongoing inventory of each debt owed to it, including debts due to improper payments, and shall make every reasonable effort to collect each debt. Within sixty (60) days after the identification of a debt, each agency shall begin administrative action to collect the debt.

(3) The Auditor of Public Accounts shall review each agency's debt identification and collection procedures as part of the annual audit of state agencies.

(4) An agency shall not forgive any debt owed to it unless that agency has entered into a forgivable loan agreement with a

borrower, or unless otherwise provided by statute.

(5) For those agencies without statutory procedures for collecting debts, the ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe standards and procedures with which those agencies shall comply regarding collection of debts, notices to persons owing debt, information to be monitored concerning the debts, and an appeals process.

(6) Each agency and the Court of Justice shall identify all liquidated debts, including debts due to improper payments, and shall submit a list of those liquidated debts in the form and manner prescribed by the ***department***[~~cabinet~~] to the ***department***[~~cabinet~~] for review. The ***department***[~~cabinet~~] shall review the information submitted by the agencies and the Court of Justice and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the ***department***[~~cabinet~~] to further pursue collection of the liquidated debts.

(a) The ***department***[~~cabinet~~] may, after consultation with the agency or the Court of Justice, return the liquidated debt to the entity submitting the liquidated debt if:

1. The request for review contains insufficient information; or

2. The debt is not feasible to collect.

Any return of a liquidated debt shall be in writing, and shall state why the debt is being returned.

(b) The ***department***[~~cabinet~~] shall identify in writing, to the submitting agency or the Court of Justice, the liquidated debts it has determined that it can pursue in a cost-effective manner, and the agency or Court of Justice shall officially refer the identified liquidated debts to the cabinet for collection.

(c) The agency and the Court of Justice shall retain a complete record of all liquidated debts referred to the cabinet for collection until the debt is collected or forgiven.

(d) Each agency and the Court of Justice shall make appropriate accounting of any uncollected debt as prescribed by law.

(7) (a) If the agency recovers the debt funds prior to referral to the ***Department of*** Revenue[~~ Cabinet~~], the agency shall retain the collected funds in accordance with its statutory authority.

(b) Upon referral of a liquidated debt to the ***Department of*** Revenue[~~ Cabinet~~], the liquidated debt shall accrue interest from the time of referral until paid, and a twenty-five percent (25%) collection fee shall attach unless the interest and collection fee are waived by the ***Department of*** Revenue[~~ Cabinet~~]. The collection fee and interest shall be in addition to any other costs accrued prior to the time of referral. The cabinet may deduct and retain from the liquidated debt recovered an amount equal to the lesser of the collection fee or the actual expenses incurred in the collection of the debt. Any funds recovered by the ***Department of*** Revenue[~~ Cabinet~~] after the deduction of the cabinet's cost of collection expenses shall be deposited in the general fund, except for Medicaid benefits funds and funds required by law to be remitted to a federal agency, which shall be remitted as required by law.

(c) Nothing in this section shall prohibit the ***Department of*** Revenue[~~ Cabinet~~] from entering into a memorandum of agreement with an agency pursuant to KRS 131.130(11), for collection of debts prior to liquidation. If an agency enters into an agreement with the cabinet, the agency shall retain funds collected according to the provisions of the agreement.

(d) This section shall not affect any agreement between the cabinet and an agency entered into under KRS 131.130(11) that is in effect on July 13, 2004, that provides for the collection of liquidated debts by the cabinet on behalf of the agency.

(e) This section shall not affect the collection of delinquent taxes by county attorneys under KRS 134.500.

(f) This section shall not affect the collection of performance or reclamation bonds.

(8) Upon receipt of a referred liquidated debt and after its determination that the debt is feasible and cost-effective to collect, the ***Department of*** Revenue[~~ Cabinet~~] shall pursue collection of the referred debt in accordance with KRS 131.030.

(9) By administrative regulation promulgated under KRS Chapter 13A, the ***Department of*** Revenue[~~ Cabinet~~] shall prescribe the electronic format and form of, and the information required in, a referral.

(10) (a) The ***Department of*** Revenue[~~ Cabinet~~] shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the collection of debts, including debts due to improper payments. The report shall include the total amount by agency and fund type of liquidated debt that has been referred to the cabinet; the amount of each referring agency's liquidated debt, by fund type, that has been collected by the ***department***[~~cabinet~~]; and the total amount of each referring agency's liquidated debt, by fund type, that the cabinet determined to be cost-ineffective to collect, including the reasons for the determinations.

(b) Each cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on:

1. The amount of previous fiscal year unliquidated debt by agency, including debts due to improper payments, fund type, category, and age, the latter to be categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years; and

2. The amount, by agency, of liquidated debt, including debts due to improper payments, not referred to the

Department of Revenue[~~ Cabinet~~]; a summary, by criteria listed in subsection (6)(a) of this section, of reasons the ***Department of*** Revenue[~~ Cabinet~~] provided for not requesting referral of those liquidated debts; and a summary of the actions each agency is taking to collect those liquidated debts.

(c) Beginning on October 1, 2005, the Court of Justice shall report annually by October 1 of each year to the Interim Joint Committee on Appropriations and Revenue the amount of previous fiscal year unliquidated debt by county and whether in the Circuit Court or District Court; and fund type and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years. The first year for which the Court of Justice shall be required to report is the fiscal year beginning on July 1, 2004 and ending on June 30, 2005. The Court of Justice shall not be required to report unliquidated debts in existence prior to July 1, 2004.

(d) The Finance and Administration Cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the amount of the General Government Cabinet's unliquidated debt by agency, fund type, and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years.

(11) At the time of submission of a liquidated debt to the ***Department of*** Revenue[~~ Cabinet~~] for review, the referring agency or the Court of Justice shall provide information about the debt to the State Treasurer for the Treasurer's action under KRS 44.030(1).

Section 65. KRS 45.251 is amended to read as follows:

(1) Expenditures shall be limited to the amounts and purposes for which appropriations are made. All expenditures shall be reflected in the unified and integrated system of accounts as provided by KRS 45.305.

(2) The Finance and Administration Cabinet shall prescribe all information technology standards, system attributes, and components to be used in, or in conjunction with, the unified accounting system. The components must be consistent with Commonwealth standards contained within the information technology architecture, as provided by the ***Commonwealth Office of***[~~Governor's Office for~~] Technology.

(3) The Governor, the Chief Justice, and the Legislative Research Commission shall designate the officer or employee authorized to approve advices of employment, purchase orders and contracts, and requisitions for reservation of funds, and no advice, order, contract, or requisition shall be honored as a commitment statement unless the designation has been conveyed to the Finance and Administration Cabinet.

(4) The Finance and Administration Cabinet may approve for payment any expenditure presented by a budget unit, provided that the Finance and Administration Cabinet is able to determine that the expenditure is to satisfy a liability of the Commonwealth of Kentucky created on behalf of that budget unit in fulfilling the governmental function assigned to that budget unit and that the expenditure is being made from the unexpended balance of a proper allotment.

(5) Subsidiary records shall be maintained to report the financial operation and condition of each budget unit. These subsidiary records shall be compatible with the unified accounting system prescribed by subsection (1) of this section and by KRS 45.305, and may be on the accrual basis or cash basis. Expenditures may be by prior encumbrances or by straight disbursements. The subsidiary records may be maintained by the Finance and Administration Cabinet and by the budget unit involved. When a budget unit is authorized to maintain subsidiary records, the Finance and Administration Cabinet shall have authority to prescribe the accounting and preauditing procedures. The unified system of accounts shall conform to accepted management and accounting principles.

Section 66. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a branch budget bill to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a branch budget bill to receive and disburse contributions, gifts, donations, devises, and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions, and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust, or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust, or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are

available.

(5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from the approved charges shall be credited to the surplus account of the general fund. Payroll deductions for the Kentucky State Police legal fund shall be made without any service fees or charges.

(6) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless the services or materials are required by law to be furnished gratuitously. The receipts from the authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, the ***Commonwealth Office of***[~~Governor's Office for~~] Technology's operating account.

(7) All receipts which accrue as the result of the ***Commonwealth Office of***[~~Governor's Office for~~] Technology's providing on-line computer access to public records by nongovernment entities shall be deposited in the State Treasury and credited to the trust and agency fund, the ***Commonwealth Office of***[~~Governor's Office for~~] Technology's operating account.

Section 67. KRS 45.818 is amended to read as follows:

The ***executive director of the Commonwealth Office of Technology***[~~Commonwealth's chief information officer~~] shall provide to the Capital Projects and Bond Oversight Committee at its January, April, July, and October regular meetings a status report on any information technology system not yet completed which received line item authorization by the Kentucky General Assembly or was authorized pursuant to KRS 45.760(14), excluding systems of an institution as defined under KRS 164.001. The committee shall prescribe data elements to be included in the quarterly status reports.

Section 68. KRS 45.990 is amended to read as follows:

(1) Any officer, agent, or employee of any budget unit who willfully fails or refuses to comply with any of the provisions of KRS 45.011 to 45.031, 45.121, 45.142, 45.151, 45.242, 45.244, 45.251, 45.253, 45.305, or 45.313, or who expends any money in violation of any of the provisions of those sections, shall be subject to prosecution in the Franklin Circuit Court, and upon conviction shall be guilty of a violation.

(2) If any person incurs, or orders or votes for the incurrence of, any obligations in violation of any of the provisions of KRS 45.244, he and his sureties shall be jointly and severally liable therefor.

(3) Any employee of the ***Office***[~~Division~~] of Material and Procurement Services ***established within the Office of the Controller***, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement in the procurement of business, or the giving of business, including, but not limited to, personal service contracts, for, or to, or from, any person, partnership, firm, or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a Class C felony.

(4) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money, or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, including, but not limited to, personal service contracts, to any employee of the ***Office***[~~Division~~] of Material and Procurement Services or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a Class C felony.

Section 69. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

  (a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

  (b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

  (c) The Finance and Administration Cabinet shall attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing

by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet.

(5) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Surplus ***Properties***~~[Property]~~, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.

(6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(7) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(8) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.

(9) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(11) For capital construction projects, subject to the provisions of this code and KRS 45A.180, the procurement may be on whichever of the following alternative project delivery methods, in the judgment of the secretary of the Finance and Administration Cabinet after first considering the traditional design-bid-build project delivery method, offers the best value to the taxpayer:

(a) A design-build basis; or

(b) A construction management-at-risk basis.

Proposals shall be reviewed by the engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Nothing in this section shall prohibit the procurement of phased bidding or construction manager-agency services.

(12) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy-using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 70. KRS 45A.182 is amended to read as follows:

(1) When a capital project is to be constructed utilizing the design-build method in accordance with KRS 45A.180, a process parallel to the selection committee procedures established in KRS 45A.810 shall apply when procuring a design-build team and shall incorporate the following:

(a) The evaluation process may include a multiple phased proposal that is based on qualifications, experience, technical requirements, guaranteed maximum price, and other criteria as set forth in the request for proposal. The guaranteed maximum price component shall be submitted by the offeror independently of other documents and shall be held by the director of the Division of ***Engineering and Contract***[~~Contracting and~~] Administration.

(b) Each evaluator shall independently score each phase and indicate a total score for all evaluation factors as set forth in the request for proposal.

(c) Final phase proposals from the offerors on the short list shall be evaluated and scored by the evaluation committee members who shall not have knowledge of the guaranteed maximum price component. Each evaluator shall independently score the final phase proposals and indicate a total score. A total average score shall be calculated for each offeror. Then each offeror's respective score for the guaranteed maximum price shall be added. The offeror with the highest point total in the final phase shall receive the contract award unless the guaranteed maximum price proposal is in excess of the authorized budget. If two (2) or more of the offerors achieve the same highest point total at the end of the final phase scoring, the purchasing officer shall request best-and-final proposals from each offeror.

(d) If the guaranteed maximum price of the offeror with the highest point total in the final phase is greater than the amount of funds identified in the request for proposal, then competitive negotiations may be conducted with the offerors under the following restrictions:

1. If discussion pertaining to the revision of the specifications or quantities are held, the offerors shall be afforded an opportunity to take part in such discussions.

2. Written revisions of the specifications shall be made available to each of the offerors and shall provide for an expeditious response.

3. Information derived from revised maximum guaranteed price proposals shall not be disclosed to competing offerors.

(2) A request for proposal or other solicitation may be canceled, or all proposals may be rejected, if it is determined in writing that such action is taken in the best interest of the Commonwealth and approved by the purchasing officer.

Section 71. KRS 45A.715 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall not enter into any personal service contract for the collection of revenue for the state or for the prosecution of any action or proceeding for the collection of delinquent taxes owed by a resident and the assessment of omitted property owned by a resident.

Section 72. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and

provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Kentucky Asset/Liability Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University, Eastern Kentucky University, the Kentucky Community and Technical College System for the Technical Institutions' Branch, and the University of Kentucky for the University of Kentucky Community College System;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management;

(6) "Office" means the Office of Financial Management established by ***Section 11 of this Act***[~~KRS 42.400~~];

(7) "Underwriter" means:

 (a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

 (b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 73. KRS 47.012 is amended to read as follows:

All moneys paid to the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 138.510 to 138.550 shall be deposited with the State Treasurer and be credited to the general expenditure fund.

Section 74. KRS 48.115 is amended to read as follows:

(1) Except as provided for in subsection (4) of this section, the detailed revenue estimates for the general fund and the road fund required by KRS 48.120 shall be based on a consensus revenue forecast. The consensus revenue forecast shall be developed by the consensus forecasting group. The members of the consensus forecasting group shall be jointly selected by the state budget director and the Legislative Research Commission. The members shall be knowledgeable about the state and national economy and the revenue and financial conditions of the Commonwealth.

(2) If, after the revenue estimates made as required under KRS 48.120, the Legislative Research Commission or state budget director determines that a revision to the revenue estimates is needed, the Legislative Research Commission or state budget director shall request a revision from the consensus forecasting group. The revised revenue estimates shall become the official revenue estimates.

(3) The state budget director shall coordinate with the ***Department of*** Revenue[~~ Cabinet~~] and the Transportation Cabinet to ensure that the financial and revenue data required for the forecasting process is made available to the consensus forecasting group.

(4) Staff for the consensus forecasting group shall be provided by the Legislative Research Commission.

Section 75. KRS 48.810 is amended to read as follows:

Each program cabinet, the Department for Local Government, the Department of Military Affairs, and the ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall develop and submit a four (4) year strategic plan to meet the broad goals outlined by the Governor, and shall submit an electronic copy of the full plan and an electronic copy of a brief summary of that plan to the state budget director, the secretary of the Executive Cabinet, and the Legislative Research Commission with each biennial budget request.

(1) Each strategic plan shall include, but not be limited to:

 (a) A statement of the cabinet or administrative entity's value, vision, and mission;

 (b) A statement of how the cabinet or administrative entity's strategic plan is aligned with the Governor's goals and linked to the budget request and the six (6) year capital plan of the cabinet or administrative entity;

 (c) A brief summary of a situation analysis conducted by the program cabinet or administrative entity;

 (d) Identification of measurable goals for the next four (4) years;

 (e) Specification of objectives to meet the stated goals;

 (f) Identification of performance indicators to be used to measure progress toward meeting goals and objectives; and

 (g) A progress report providing data and information on the performance indicators set forth in the program cabinet or administrative entity's most recent strategic plan.

(2) On or before September 1 of each even-numbered fiscal year, program cabinets and administrative entities which have

submitted strategic plans in the previous fiscal year shall submit a progress report to the office of the state budget director, or its designee, which provides data and information regarding the progress the program cabinet or entity has made toward meeting its goals as measured by performance indicators set forth in the cabinet's or entity's most recent strategic plan.

(3) The state budget director shall designate an entity to develop and implement a methodology for strategic planning and progress reporting for use by program cabinets and administrative entities submitting strategic plans and progress reports pursuant to this section. The entity designated by the state budget director shall develop and make available a training course in strategic planning that is appropriate for and targeted to state government managers, and shall make that training course available to state managers and their designees who have responsibility for the completion of a strategic plan as required by this section.

(4) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall maintain uniform electronic strategic plan and progress report submission forms and a procedure that allows all plans and progress reports to be entered into an electronic database that is searchable by interested parties. The database shall be developed and maintained in a form that complies with all provisions of KRS 48.950, 48.955, and 48.960. The ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall develop and maintain a program to provide public access to submitted plans and progress reports.

Section 76. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of the Treasury, Internal Revenue Service, a State Property and Buildings Commission composed of the Governor, who shall be chairman thereof, the Lieutenant Governor who shall be vice chairman of the commission, the Attorney General, the secretary of the Cabinet for Economic Development, ***and*** the secretary of the Finance and Administration Cabinet,[~~ and the secretary of the Revenue Cabinet,~~] or their alternates as authorized in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee, or other remuneration for his services as a member of the commission, but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission shall constitute a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271B, except as that chapter may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies, except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter. As an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name, in accordance with the terms and provisions of KRS Chapter 58, secured by and payable solely from all or any part of the revenues of the state agency as may be specified and provided in the approved application. Any covenants and undertakings of the state agency in the approved application with regard to the production of revenues and the use, application, or disposition thereof may be enforced by the holders of any of the revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by or on behalf of the Kentucky Economic Development Finance Authority and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, Ch. 109, shall require the prior approval of the State Property and Buildings Commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one (1) unit within the meaning of the regulations of the United States Department of the Treasury, Internal Revenue Service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission may designate, by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four (4) years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature, whether the same has been revoked, and when; and the joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of

the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any four (4) members of the commission, or their alternates authorized under paragraph (a) of this subsection, shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.

(c) The State Property and Buildings Commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 77. KRS 56.784 is amended to read as follows:

(1) The Finance and Administration Cabinet may implement the provisions of KRS 56.770 to 56.784 through the promulgation of administrative regulations pursuant to KRS Chapter 13A.

(2) By July 15, 2002, the secretary of the Finance and Administration Cabinet shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A establishing a process for procurement of energy savings performance contracts, including required contract language. The following entities shall adhere to these regulations when procuring services under a guaranteed energy savings performance contract:

(a) Any governing body of a postsecondary institution that manages its capital construction program under KRS 164A.580; or

(b) Any public corporation as defined by KRS 45.750(2)(c) or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth that manages its capital construction program.

(3) All state agencies, including those identified in subsection (2) of this section, shall submit proposed guaranteed energy savings performance contracts to the Office of Financial Management ***within the Office of the Controller*** for review and approval prior to contract execution.

(4) The secretary shall report all authorized guaranteed energy savings performance contracts to the Capital Projects and Bond Oversight Committee for its review.

Section 78. KRS 56.813 is amended to read as follows:

(1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) (a) When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.

1. If the improvements cost more than one thousand dollars ($1,000), the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full over the life of the lease. No other financing method shall be used.

2. If the improvements cost one thousand dollars ($1,000) or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full over a period of time which shall run no longer that the life of the lease. No other financing method shall be used. No improvement shall be artificially divided so as to qualify under the provisions of this subparagraph.

(b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.

(c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost.

(3) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.

(4) The Division of Real Properties, within the Department for Facilities ***and Support Services***[~~Management~~], shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Section 79. KRS 56.8177 is amended to read as follows:

All built-to-suit lease agreements shall be reviewed by the Office of Financial Management ***within the Office of the Controller*** prior to execution on behalf of the Commonwealth by the secretary of the Finance and Administration Cabinet or on behalf of an institution in accordance with KRS 164A.630, and approved for form and legality by the Attorney General or an assistant attorney general, before they shall be binding against the Commonwealth. All the leases shall be lodged for record and recorded in the office of the county clerk of the county in which the leased property is located.

Section 80. KRS 56.819 is amended to read as follows:

(1) When there is a change in ownership in leased premises, the new owner shall furnish the Division of Real Properties, within the Department for Facilities ***and Support Services***[~~Management~~], with a copy of the deed or other instrument of conveyance by which the new owner acquired title to the property or the right to payment under the lease and other evidence in support of his claim to the payment of rent under the lease the Division of Real Properties may request. The Commonwealth shall change its records and redirect its rent payments accordingly.

(2) When the agency occupying leased premises or the Finance and Administration Cabinet receives information that a change in ownership has occurred, payments of rent shall be suspended until the Division of Real Properties learns the ownership of the premises and determines who is entitled to the rent.

Section 81. KRS 56.861 is amended to read as follows:

(1) There is recognized as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of Treasury, Internal Revenue Service, a Kentucky Asset/Liability Commission composed of the secretary of the Finance and Administration Cabinet, who shall be chair; the Attorney General; the State Treasurer;[~~ the secretary of the Revenue Cabinet;~~] and the state budget director, or their alternates as authorized in KRS 56.865. The vice chair shall be elected from among the membership.

(2) Any three (3) members of the commission, or their alternates, shall constitute a quorum and shall by a majority vote be authorized to transact any and all business of the commission.

(3) No member shall receive any salary, fee, or other remuneration for services as a member of the commission, but each shall be entitled to reimbursement for ordinary traveling expenses, including meals and lodging, incurred in the performance of the member's duties.

(4) The commission shall constitute a public body corporate with perpetual succession and power in name to contract and be contracted with, sue and be sued, adopt bylaws not inconsistent with KRS 56.860 to 56.869, have and use a corporate seal, and exercise all of the powers granted private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with KRS 56.860 to 56.869.

(5) The selection of bond counsel, senior managing underwriter, or financial advisor to the commission shall be subject to the provisions of KRS 45A.840 to 45A.879.

(6) Notes issued pursuant to KRS 56.860 to 56.869 may be sold on a competitive or negotiated sale basis.

Section 82. KRS 56.862 is amended to read as follows:

The Office of Financial Management ***within the Office of the Controller*** shall serve as staff to the commission. The executive director of the Office of Financial Management shall serve as secretary to the commission. The commission shall coordinate with the Office of the Controller to ensure that the necessary financial data is made available.

Section 83. KRS 56.863 is amended to read as follows:

The commission shall have the power and duty to:

(1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of KRS 56.860 to 56.869;

(2) Promulgate administrative regulations relating to KRS 56.860 to 56.869;

(3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, and the resulting change in the net interest margin on the budget of the Commonwealth;

(4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;

(6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state agency to fund authorized projects or to satisfy judgments;

(7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under KRS 56.860 to 56.869 to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;

(8) Designate individual employees or officers of the Office of Financial Management ***within the Office of the Controller*** as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount,

maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial agreements, for the commission;

(9) Enter into financial agreements for the purpose of hedging its current or projected interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;

(10) Deposit net interest payments and premiums received by the commission under financial agreements into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to interest-sensitive liabilities; and

(11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:

(a) A description of the Commonwealth's investment and debt structure;

(b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;

(c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year; and

(d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

Section 84. KRS 61.420 is amended to read as follows:

For the purpose of KRS 61.410 to 61.500:

(1) "Wages" means all remuneration for employment as defined in subsection (2) of this section, including the cash value of all remuneration paid in any medium other than cash, except that the term shall not include that part of the remuneration which, even if it were for "employment" within the meaning of Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act;

(2) "Employment" means any service performed by an employee in the employ of the Commonwealth, a political subdivision, or an interstate instrumentality, for those employers, except (a) service of an emergency nature, (b) service which in the absence of an agreement entered into under KRS 61.410 to 61.500 would constitute "employment" as defined in the Social Security Act, or (c) service which under the Social Security Act may not be included in any agreement between the Commonwealth and the commissioner entered into under KRS 61.410 to 61.500; except that service, the compensation for which is on a fee basis, may be excluded in any plan approved under KRS 61.410 to 61.500, and provided also, that service in any class or classes of positions, the exclusion of which is permitted under the Social Security Act, may be excluded in any plan approved under KRS 61.460;

(3) "Employee" means any person in the service of the Commonwealth, a political subdivision, or an interstate instrumentality of which the Commonwealth is a principal and shall include all persons designated officers including those which are elected and those which are appointed;

(4) "State agency" means the Division of ***Local Government Services***[~~Social Security~~], Office of the Controller, which agency shall be subject to the authority of the secretary of finance and administration;

(5) "Political subdivision," in addition to counties, municipal corporations, and school districts, includes instrumentalities of the Commonwealth, of one (1) or more of its political subdivisions, or of the Commonwealth and one (1) or more of its political subdivisions, and any other governmental unit thereof;

(6) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," including regulations and requirements issued pursuant thereto, as that act has been and may from time to time be amended;

(7) "Federal Insurance Contributions Act" means subchapters A, B, and C of Chapter 21 of the Federal Internal Revenue Code and all amendments thereto;

(8) "Commissioner" means the Commissioner of Social Security and includes any individual to whom the commissioner may delegate any of the commissioner's functions under the Social Security Act; and, with respect to any transactions regarding insurance coverage occurring prior to April 11, 1953, includes the federal security administrator and any individual to whom the administrator may have delegated any of the administrator's functions under the Social Security Act; and, with respect to any transactions regarding insurance coverage occurring from April 11, 1953, to March 30, 1995, includes the Secretary of Health and Human Services and any individual to whom the secretary may have delegated any of the secretary's functions under the Social Security Act;

(9) "Insurance coverage" means coverage by the old-age, survivors, disability, and hospital insurance provisions of the Social Security Act.

Section 85. KRS 62.055 is amended to read as follows:

(1) Every county clerk, before entering on the duties of his office, shall execute bond to the Commonwealth, with corporate surety authorized and qualified to become surety on bonds in this state. Any county clerk holding office as of January 1, 1978, who has not executed bond as provided herein shall do so within thirty (30) days from February 9, 1978.

(2) In counties containing a consolidated local government or a city of the first class, the amount of the county clerk's bond shall be at least five hundred thousand dollars ($500,000). In counties containing a city of the second class but not containing consolidated local governments and in counties containing an urban-county form of government, the amount of county clerk's bond shall be at least four hundred thousand dollars ($400,000). In counties containing a city of the third class but not a city of the first or second class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least one hundred thousand dollars ($100,000). In counties containing a city of the fourth or fifth class, but not a city of the first, second, or third class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least seventy-five thousand dollars ($75,000). In counties containing a city of the sixth class, but not a city of the first, second, third, fourth, or fifth class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least fifty thousand dollars ($50,000).

(3) The bond of the county clerk shall be examined and approved by the fiscal court, which shall record the approval in its minutes. The fiscal court shall record the bond in the county clerk's records and a copy of the bond shall be transmitted within one (1) month to the ***Department of*** Revenue[~~ Cabinet~~], where it shall be recorded and preserved. Except in those counties where the fees of the county clerk are paid into the State Treasury, the premium on the county clerk's bond shall be paid by the county.

(4) Where circumstances in a particular county indicate that the amount of the bond may not be sufficient, the ***Department of*** Revenue[~~ Cabinet~~] may request the fiscal court to increase the bond as provided in KRS 62.060. The fiscal court shall then require a bond of sufficient amount to safeguard the Commonwealth.

Section 86. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

(1) "Activation date" means the date established in the grant contract at any time in a two (2) year period after the date of approval of the grant contract by the economic development authority or the tourism development authority, as appropriate. The economic development authority or tourism development authority, as appropriate, may extend this two (2) year period to no more than four (4) years upon written application of the agency requesting the extension. To implement the activation date, the agency who is a party to the grant contract shall notify the economic development authority or the tourism development authority, as appropriate, the ***Department of*** Revenue[~~ Cabinet~~], and other taxing districts that are parties to the grant contract when the implementation of the increment authorized in the grant contract shall occur;

(2) "Agency" means an urban renewal and community development agency established under KRS Chapter 99; a development authority established under KRS Chapter 99; a nonprofit corporation established under KRS Chapter 58; an air board established under KRS 183.132 to 183.160; a local industrial development authority established under KRS 154.50-301 to 154.50-346; a riverport authority established under KRS 65.510 to 65.650; or a designated department, division, or office of a city or county;

(3) "Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area;

(4) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;

(5) "City" means any city, consolidated local government, or urban-county;

(6) "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "County" means any county, consolidated local government, or charter county;

(9) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items (base year computed for

1982 to 1984 equals one hundred (100)), published by the United States Department of Labor, Bureau of Labor Statistics;

(10) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(11) "Development area" means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more projects are proposed to be located, except that for any development area for which increments are to include revenues from the Commonwealth, the contiguous geographic area shall satisfy the requirements of KRS 65.6971 or 65.6972;

(12) "Economic development authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(13) "Enterprise Zone" means an area designated by the Enterprise Zone Authority of Kentucky to be eligible for the benefits of KRS 154.45-010 to 154.45-110;

(14) "Governing body" means the body possessing legislative authority in a city or county;

(15) "Grant contract" means:

(a) That agreement with respect to a development area established under KRS 65.686, by and among an agency and one (1) or more taxing districts other than the Commonwealth, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments other than revenues from the Commonwealth received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area; or

(b) That agreement, including with respect to a development area satisfying the requirements of KRS 65.6971 or 65.6972, a master agreement and addenda to the master agreement, by and among an agency, one (1) or more taxing districts, and the economic development authority or the tourism development authority, as appropriate, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area;

(16) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(17) "Increments" means the amount of revenues received by any taxing district, determined by subtracting the amount of old revenues from the amount of new revenues in the calendar year with respect to a development area and for which the taxing district or districts and the agency have agreed upon under the terms of a grant contract;

(18) "Infrastructure development" means the acquisition of real estate within a development area meeting the requirements of KRS 65.6971 and the construction or improvement, within a development area meeting the requirements of KRS 65.6971, of roads and facilities necessary or desirable for improvements of the real estate, including surveys; site tests and inspections; environmental remediation; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other underground and surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, and electricity, communications, and similar facilities; and utility extensions to the boundaries of the development area meeting the requirements of KRS 65.6971;

(19) "Issuer" means a city, county, or an agency issuing increment bonds;

(20) "New revenues" means the amount of revenues received with respect to a development area in any calendar year after the activation date for a development area:

(a) Established under KRS 65.686, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area, and occupational license fees not otherwise used as a credit against an assessment, and all or a portion of assessments as determined by the governing body; or

(b) Satisfying the requirements of KRS 65.6971, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area; or

(c) Satisfying the requirements of KRS 65.6972, the ad valorem taxes, other than the school and fire district portions of the ad valorem taxes, received from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes as may be determined by the ***Department of*** Revenue[~~ Cabinet~~] to be applicable to the project and specified in the grant contract, generated from the primary project entity within the development area minus relocation revenue;

(21) "Old revenues" means the amount of revenues received with respect to a development area:

(a) Established under KRS 65.686, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area and occupational license fees generated from the development area; or

(b) Satisfying the requirements of KRS 65.6971, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area; or

(c) Satisfying the requirements of KRS 65.6972, in the period of no longer than three (3) calendar years prior to the commencement date, the average as determined by the ***Department of*** Revenue[~~Cabinet~~] to be a fair representation of revenues derived from ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property in the development area, and Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the ***Department of*** Revenue[~~Cabinet~~] as specified in the grant contract generated from the development area. With respect to this paragraph, if the development area was within an active enterprise zone for the period used by the ***Department of*** Revenue[~~Cabinet~~] for measuring old revenues, then the calculation of old revenues shall include the amounts of ad valorem taxes, other than the school and fire district portions of ad valorem taxes, that would have been generated from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the ***Department of*** Revenue[~~Cabinet~~] as specified in the grant contract, were the development area not within an active enterprise zone. With respect to this paragraph, if the primary project entity generated old revenue prior to the commencement date in the development area or revenues were derived from the development area prior to the commencement date of the development area, then revenues shall increase each calendar year by the percentage increase of the consumer price index, if any;

(22) "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or

(c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(23) "Primary project entity" means the entity responsible for control, ownership, and operation of the project within a development area satisfying the requirements of KRS 65.6972 which generates the greatest amount of new revenues or, in the case of a proposed development area satisfying the requirements of KRS 65.6972, is expected to generate the greatest amount of new revenues;

(24) "Project" means, for purposes of a development area:

(a) Established under KRS 65.686, any property, asset, or improvement certified by the governing body, which certification is conclusive as:

1. Being for a public purpose;

2. Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development areas as contributing to economic development;

3. Being in or related to a development area; and

4. Having an estimated life or period of usefulness of one (1) year or more, including but not limited to real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;

(b) Satisfying the requirements of KRS 65.6971; an economic development project defined under KRS 154.22-010, 154.24-010, or 154.28-010; or a tourism attraction project defined under KRS 148.851; or

(c) Satisfying the requirements of KRS 65.6972, the development of facilities for:

1. The transportation of goods or persons by air, ground, water, or rail;

2. The transmission or utilization of information through fiber-optic cable or other advanced means;

3. Commercial, industrial, recreational, tourism attraction, or educational uses; or

4. Any combination thereof;

(25) "Relocation revenue" means the ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as specified in the grant contract, received by a taxing district attributable to that

portion of the existing operations of the primary project entity located in the Commonwealth and relocating to the development area satisfying the requirements of KRS 65.6972;

(26) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;

(27) "Taxing district" means a city, county, or other taxing district that encompasses all or part of a development area, or the Commonwealth, but does not mean a school district or fire district;

(28) "Termination date" means the date on which a development area shall cease to exist, which for purposes of a development area:

(a) Established under KRS 65.686, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this paragraph; or

(b) Satisfying the requirements of KRS 65.6971, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract constituting a master agreement, except that for an addendum added to the master agreement for each project in the development area, the termination date may be extended to no longer than twenty (20) years from the date of each addendum; or

(c) Satisfying the requirements of KRS 65.6972, shall be for a period of no longer than twenty (20) years from the activation date of the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this subsection;

(29) "Tourism development authority" means the Tourism Development Finance Authority as created in KRS 148.850; and

(30) "Project costs" mean the total private and public capital costs of a project.

Section 87. KRS 65.6971 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area for infrastructure development which includes revenues from the Commonwealth, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area described in the application constitutes a project of the type described in this section. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A development area for purposes of infrastructure development shall:

(a) 1. Consist of at least fifty (50) acres of undeveloped land, unless approved otherwise by the economic development authority or the tourism development authority in consideration of the geography of the area; or

2. Consist of at least one (1) acre constituting a brownfield site; and

(b) 1. In the case of an economic development project, be under the control of, owned by, and operated by an agency at the commencement date; or

2. In the case of a tourism attraction project, be under the control of, leased by, owned by, or operated by an agency at the commencement date.

(3) With respect to each city, county, or agency that applies to the economic development authority or the tourism development authority for approval of a development area for infrastructure development, the economic development authority or the tourism development authority shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority may grant approval for:

(a) The development area for infrastructure development;

(b) Each project for which an application has been submitted to be located in the development area for infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under subchapters 22, 24, or 28 of KRS Chapter 154, or satisfies the requirements of a tourism development attraction defined under KRS 148.851;

(c) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to distribute to the agency each year during the term of the grant contract;

(d) The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and

(e) The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.

(4) Prior to any approval by the economic development authority or the tourism development authority, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or

county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the development area for which economic development authority or the tourism development authority approval is sought. The economic development authority or the tourism development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

(5) The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).

(6) The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority or the tourism development authority and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority or the tourism development authority as to the use of the increment for payment of infrastructure development costs.

(7) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the ***Department of*** Revenue[~~ Cabinet~~] for certification.

  1. Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the ***Department of*** Revenue[~~ Cabinet~~] on a calendar year basis the amount of the increment collected.

  2. Upon certification of the total increment due from the Commonwealth by the ***Department of*** Revenue[~~ Cabinet~~], the ***department***[~~Cabinet~~] is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The ***Department of*** Revenue[~~ Cabinet~~] shall report to the economic development authority or the tourism development authority on a calendar year basis the amount of the total increment released to an agency.

(8) The ***Department of*** Revenue[~~ Cabinet~~] shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(9) The ***Department of*** Revenue[~~ Cabinet~~] or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.

Section 88. KRS 65.6972 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area, which includes revenues from the Commonwealth, and the related project, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area and related project described in the application constitutes a project of the type described in KRS Chapter 154 for which the economic development authority shall have the right to approve the development area and related project or KRS Chapter 148 for which the tourism development authority shall have the right to approve the development area and related project. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A project otherwise satisfying the requirements of the project as defined in KRS 65.680, in order to qualify the project and related development area, in addition shall satisfy all of the following requirements for a project:

(a) Represent new economic activity in the Commonwealth;

(b) Result in a minimum capital investment of ten million dollars ($10,000,000);

(c) Result in the creation of a minimum of twenty-five (25) new full-time jobs for Kentucky residents to be held by persons subject to the personal income tax of the Commonwealth within two (2) years of the date of the final resolution authorizing the development area and the project;

(d) Result in a net positive economic impact to the economy of the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses;

(e) Generate a minimum of twenty-five percent (25%) of the total revenues derived from the project attributable to sources outside of the Commonwealth during each year a grant contract is in effect;

(f) Result in a unique contribution to or preservation of the economic vitality and quality of life of a region of the Commonwealth; and

(g) Not be primarily devoted to the retail sale of goods.

(3) After assignment of the application for the project and related development area by the Cabinet for Economic Development:

(a) The economic development authority or the tourism development authority, as appropriate, shall engage the services of a qualified independent consultant to analyze data related to the project and the development area, who shall prepare a report for the economic development authority or the tourism development authority, as appropriate, with the following findings:

1. The percentage of revenues derived from the development area which are generated from business not located in the Commonwealth;

2. The estimated amount of increment the development area is expected to generate over a twenty (20) year period from the projected activation date;

3. The estimated amount of ad valorem taxes, other than the school or fire district portion of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes which would be displaced within the Commonwealth, to reflect economic activity which is being shifted over the twenty (20) year period;

4. The estimated increment the development area is expected to generate over the twenty (20) year period, equal to the estimated amount set forth in paragraph (a)2. of this subsection minus the estimated amount set forth in paragraph (a)3. of this subsection; and

5. The project or development area will not occur if not for the designation of the development area and granting of increments by the Commonwealth to the development area.

(b) The independent consultant shall consult with the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the ***Department of*** Revenue[~~ Cabinet~~] in the development of the report. The Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project to the economic development authority or tourism development authority, as appropriate. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(c) The primary project entity shall pay all costs associated with the independent consultant's report.

(4) With respect to each city, county, or agency that applies for approval of a project and development area, the economic development authority or the tourism development authority, as appropriate, shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority, as appropriate, deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority, as appropriate, may by resolution grant approval for:

(a) The development area and project for which an application has been submitted;

(b) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have distributed to the agency each year during the term of the grant contract;

(c) The maximum amount of costs for the project for which the increment may be distributed to the agency; and

(d) The grant contract.

(5) Prior to any approval by the economic development authority or the tourism development authority, as appropriate, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and approving the project and establishing the percentage of increment that the city and county are distributing each year to the agency to pay for the development area for which economic development authority or tourism development authority approval is sought. The economic development authority or the tourism development authority, as appropriate, shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each year with respect to a development area and project greater than the

percentage approved by the city or county creating the development area.

(6) The amount of increment available for a development area shall be no more than eighty percent (80%) per year, but shall in no case exceed twenty-five percent (25%) of the project costs during the term of the grant agreement.

(7) The terms and conditions of each grant contract are subject to negotiations between the economic development authority or the tourism development authority, as appropriate, and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the agreed taxes to be included in the calculation of the increment, the percentage increment to be contributed by the Commonwealth and other taxing districts, the maximum amount of project costs, a description of the development area and the project, the termination date, and the requirement that the agency annually certify to the economic development authority or tourism development authority, as appropriate, as to the use of the increment for payment of project costs in the development area.

(8) The agency responsible for the development area that enters into the grant contract shall, after each year the grant contract is in effect, certify to the economic development authority or the tourism development authority, as appropriate:

(a) The amount of the increment used during the previous calendar year for the project costs; and

(b) That more than twenty-five percent (25%) of the total revenues derived from the project during the previous calendar year were attributable to sources outside the Commonwealth.

(9) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due. In consultation with each taxing district, the agency shall determine the respective portion of the total increment due from each taxing district, and the determination of the agency shall be reviewed by an independent certified public accountant. The agency shall submit to the ***Department of*** Revenue[~~ Cabinet~~] for certification its determination with respect to the total increment due together with the review of the certified public accountant and detailed information concerning ad valorem taxes, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the ***Department of*** Revenue[~~ Cabinet~~], including withholding taxes of employees of each taxpayer located in the development area.

1. Upon notification to the agency of the total increment by the ***Department of*** Revenue[~~ Cabinet~~] and notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the ***Department of*** Revenue[~~ Cabinet~~] on a calendar year basis the amount of the increments collected.

2. Upon certification of the total increment due from the Commonwealth by the ***Department of*** Revenue[~~ Cabinet~~], the ***department***[~~Cabinet~~] is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority, as appropriate, shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The ***Department of*** Revenue[~~ Cabinet~~] shall report to the economic development authority or the tourism development authority, as appropriate, on a calendar year basis the amount of the total increment released to an agency.

(10) The ***Department of*** Revenue[~~ Cabinet~~] shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(11) The ***Department of*** Revenue[~~ Cabinet~~] or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the trust account established under subsection (9)(a)2. of this section and administered by the Finance and Administration Cabinet after the initial release to the agency of the Commonwealth's increment for that period.

Section 89. KRS 65.7621 is amended to read as follows:

As used in KRS 65.7621 to 65.7643, unless the context requires otherwise:

(1) "Administrator" means the ***executive director of the Office of the 911 Coordinator within the Commonwealth Office of Technology functioning as the*** state administrator of CMRS emergency telecommunications;

(2) "Automatic location identification", or "ALI" means an enhanced 911 service capability that enables the automatic display of information defining the approximate geographic location of the wireless telephone used to place a 911 call and includes the term "pseudo-automatic number identification;"

(3) "Automatic number identification", or "ANI" means an enhanced 911 service capability that enables the automatic display

on an ALI screen of the ten-digit, or equivalent, wireless telephone number used to place a 911 call;

(4) "CMRS" means commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. secs. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, as it existed on August 10, 1993. The term includes the term "wireless" and service provided by any wireless real time two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communications service, and the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line;

(5) "CMRS Board" or "board" means the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky;

(6) "CMRS connection" means a mobile handset telephone number assigned to a CMRS customer;

(7) "CMRS customer" means a person to whom a mobile handset telephone number is assigned and to whom CMRS is provided in return for compensation;

(8) "CMRS Fund" means the commercial mobile radio service emergency telecommunications fund;

(9) "CMRS provider" means a person or entity who provides CMRS to an end user, including resellers;

(10) "CMRS service charge" means the CMRS emergency telephone service charge levied under KRS 65.7629(3) and collected under KRS 65.7635;

(11) "FCC order" means the Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted effective October 1, 1996, including any subsequent amendments or modifications thereof;

(12) "Local exchange carrier" or "LEC" means any person or entity who is authorized to provide telephone exchange service or exchange access in the Commonwealth;

(13) "Local government" means any city, county, charter county, or urban-county government of the Commonwealth, or any other governmental entity maintaining a PSAP;

(14) "Mobile telephone handset telephone number" means the ten (10) digit number assigned to a CMRS connection;

(15) "Proprietary information" means information held as private property, including customer lists and other related information, technology descriptions, technical information, or trade secrets;

(16) "Pseudo-automatic number identification" means a wireless enhanced 911 service capability that enables the automatic display of the number of the cell site or cell face;

(17) "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies;

(18) "Service supplier" means a person or entity who provides local exchange telephone service to a telephone subscriber; and

(19) "Wireless enhanced 911 system," "wireless E911 system," "wireless enhanced 911 service," or "wireless E911 service" means an emergency telephone system that provides the user of the CMRS connection with wireless 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features in accordance with the requirements of the FCC order.

Section 90. KRS 65.7623 is amended to read as follows:

(1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of eight (8) members, appointed by the Governor as follows: three (3) members shall be employed by or representative of the interest of CMRS providers; one (1) member shall be a mayor of a city of the first or second class or urban-county government or his or her designee containing a public safety answering point; one (1) nonvoting member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; and one (1) member shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials. The commissioner of the State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.

(2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years.

(3) In addition to the administrator,~~[appointed by the Governor under KRS 65.7625, and other staff authorized under KRS 65.7629,]~~ the Finance and Administration Cabinet shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the ***Commonwealth Office of***~~[Governor's Office for]~~ Technology for administrative purposes only and shall operate as an independent entity within state government.

(4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for

expenses incurred in connection with their official duties as members of the board.

(5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of this section, shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631 to be used by the board for administrative purposes.

Section 91. KRS 65.7625 is amended to read as follows:

(1) The ***executive director of the Office of the 911 Coordinator shall be the***[~~Governor shall appoint a~~] state administrator of commercial mobile radio service emergency telecommunications[~~, subject to confirmation by the Senate, from a list of no more than three (3) candidates recommended by the CMRS Board. The administrator shall serve at the pleasure of the Governor. Vacancies shall be filled in the same manner as the original appointment~~]. The CMRS Board shall set the administrator's compensation, which shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631(1) to be used by the board for administrative purposes.

(2) The administrator of CMRS emergency telecommunications shall serve as a member of the CMRS Board and, as the coordinator and administrative head of the board, shall conduct the day-to-day operations of the board.

(3) The administrator shall, with the advice of the board, coordinate and direct a statewide effort to expand and improve wireless enhanced emergency telecommunications capabilities and responses throughout the state, including but not limited to the implementation of wireless E911 service requirements of the FCC order and rules and regulations adopted in carrying out that order. In this regard, the administrator shall:

(a) Obtain, maintain, and disseminate information relating to emergency telecommunications technology, advances, capabilities, and techniques;

(b) Coordinate and assist in the implementation of advancements and new technology in the operation of emergency telecommunications in the state; and

(c) Implement compliance throughout the state with the wireless E911 service requirements established by the FCC order and any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order.

Section 92. KRS 67A.882 is amended to read as follows:

(1) Proposals for the construction of the project shall be solicited upon the basis of submission of sealed, competitive bids after advertisement by publication pursuant to KRS Chapter 424, following adoption of the ordinance of determination and expiration of the permissive litigation period, or alternatively, the conclusion of litigation in a manner favorable to the project.

(2) After all costs of the project have been determined upon the basis of the construction bidding, the costs shall be apportioned among the owners of benefited property pursuant to the method of assessment previously determined in the ordinance of initiation and the ordinance of determination. However, in determining the apportionment of individual costs for purposes of affording to the owners of benefited property the privilege of paying the assessment levies in full on a lump-sum basis, the urban-county government shall exclude amounts required for the creation of the debt service reserve fund, capitalized interest costs, and any bond discount which the government may allow in connection with the sale of bonds to provide funds for the costs of construction not paid initially by the owners of benefited properties on a lump-sum basis.

(3) The owners of benefited property shall be notified in writing of the exact amount levied against their individual properties, which amount may, at the option of each owner, be paid in full on a lump-sum basis within thirty (30) days. Such owners shall be notified that in the event they exercise the option to pay in full on a lump-sum basis and in the event any refund of lump-sum payments or of interest earned on lump-sum payments is subsequently made, it shall be paid to the owners of the benefited properties for which lump-sum payments have been made as determined at the date the appropriate ordinance under either KRS 67A.894 or subsection (5) of this section is adopted. The statement submitted to such owners of benefited property shall additionally advise such owners that in the event such owners do not elect to pay the special improvement benefit assessment in full within the period of thirty (30) days from receipt, the urban-county government shall issue bonds pursuant to KRS 67A.871 to 67A.894 for the purpose of providing the cost of construction of the project, including the debt service reserve fund, if paid from bond proceeds, capitalized interest costs, any bond discount, together with all other costs, as the term is defined in KRS 67A.871(5). The owners of the benefited property shall further be advised that bonds and the interest thereon shall be amortized by annual improvement benefit assessment levies against all benefited properties which have not made lump-sum payments in accordance with the method of apportionment provided by the ordinance of initiation and the ordinance of determination.

(4) At the conclusion of the thirty (30) day permissive lump-sum payment period, the urban-county council shall determine the aggregate principal amount of improvement benefit assessments paid in full by owners of benefited property; shall order the deposit of the moneys in a trust account the principal of which shall be used solely to pay the costs of construction of the project; shall aggregate all unpaid improvement benefit assessments for purposes of determining the principal amount of bonds to be issued by the government to provide the costs of the project; shall compute the debt service reserve fund in respect to the bonds, if the fund is to be capitalized from bond proceeds; shall determine the bond discount and capitalized interest which shall be applicable to the issue of bonds; and shall proceed to complete the financing of the costs of

construction of the project through the adoption of the ordinance of bond authorization as provided in KRS 67A.883 and the sale of bonds authorized pursuant thereto.[~~ Provided, however, that the ordinance of bond authorization may, as provided in KRS 67A.884, provide that, in lieu of issuing bonds, the government may contract with the Kentucky Pollution Abatement Authority for the financing of the project, in which latter event all procedures with respect to the annual assessment of benefited properties shall continue in full force and effect, but the urban-county government shall secure funding for the project through the Kentucky Pollution Abatement Authority in lieu of issuing bonds and shall pledge to and pay to the authority the annual improvement benefit assessment levies and enforce them for the security of the financing.~~]

(5) If an urban-county government has taken steps under KRS 67A.871 to 67A.893 to provide for, construct and finance any project, and finally determines, by appropriate ordinance, that the project is essentially completed, the legislative body of the urban-county government may, in its discretion, refund any part, or all, of the interest earned on lump-sum payments, pro rata, to the current owners of the benefited properties which paid on a lump-sum basis, as determined at the date the ordinance determining the project is essentially completed is adopted.

Section 93. KRS 68.245 is amended to read as follows:

(1) The property valuation administrator shall submit an official estimate of real and personal property and new property assessment as defined in KRS 132.010, to the county judge/executive by April 1 of each year.

(2) No county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (5) of this section.

(3) The state local finance officer shall certify to each county judge/executive, by June 30 of each year, the following:

(a) The compensating tax rate, as defined in KRS 132.010, and the amount of revenue expected to be produced by it;

(b) The tax rate which will produce no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 and the amount of revenue expected to be produced by it.

(4) Real and personal property assessment and new property determined in accordance with KRS 132.010 shall be certified to the state local finance officer by the ***Department of*** Revenue[~~ Cabinet~~] upon completion of action on property assessment data.

(5) (a) A county fiscal court, proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) County fiscal courts of counties containing a city of the first class proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold three (3) public hearings to hear comments from the public regarding the proposed tax rate. The hearings shall be held in three (3) separate locations; each location shall be determined by dividing the county into three (3) approximately equal geographic areas, and identifying a suitable facility as near as possible to the geographic center of each area.

(c) The county fiscal court shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearings which shall be held not less than seven (7) days nor more than ten (10) days, after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(d) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(e) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The county fiscal court may set reasonable time limits for testimony.

(6) (a) That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The county fiscal court shall, within seven (7) days following adoption of an ordinance to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the county fiscal court has adopted a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address, and telephone number of the county clerk, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 94. KRS 68.260 is amended to read as follows:

(1) The proposed county budget, tentatively approved by the fiscal court and approved by the state local finance officer as to form and classification, shall be submitted to the fiscal court for adoption not later than July 1 of each year. The budget as presented and amended shall be adopted as of July 1. The county judge/executive shall cause a copy of the proposed budget to be posted in a conspicuous place in the courthouse near the front door, and be published pursuant to KRS Chapter 424, at least seven (7) days before final adoption by the fiscal court.

(2) Any taxpayer or group of taxpayers may petition the fiscal court in respect to the budget or any part thereof before final adoption.

(3) If the fiscal court rejects any part of the proposed budget, it shall make the changes in the nature and amount of funds a majority of the court considers desirable, but it has no power to make any change in the form or classification of the budget units or subdivisions of units.

(4) The fiscal court may amend the budget on the basis of the assessment from the ***Department of*** Revenue~~[Cabinet]~~. The fiscal court shall finalize the budget within thirty (30) days of the receipt of the certified assessment.

Section 95. KRS 75.040 is amended to read as follows:

(1) (a) Upon the creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010 to 75.031, the trustees of a district are authorized to establish and operate a fire department and emergency ambulance service as provided in subsection (6) of this section and to levy a tax upon the property in the district, including that property within cities in a fire protection district or a volunteer fire department district, as provided by KRS 75.010(2) provided that the property is subject to county tax, and not exceeding ten cents ($0.10) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(b) A fire protection district or a volunteer fire department district that establishes and operates an emergency ambulance service and is the primary service provider in the district may levy a tax upon the property in the district not to exceed twenty cents ($0.20) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department and emergency ambulance service or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The establishment, maintenance, and operation of a fire protection district or volunteer fire department district shall include, but not be limited to, the following activities:

(a) Acquisition and maintenance of adequate fire protection facilities;

(b) Acquisition and maintenance of adequate firefighting equipment;

(c) Recruitment, training, and supervision of firefighters;

(d) Control and extinguishment of fires;

(e) Prevention of fires;

(f) Conducting fire safety activities;

(g) Payment of compensation to firefighters and providing the necessary support and supervisory personnel;

(h) Payment for reasonable benefits or a nominal fee to volunteer firefighters when benefits and fees do not constitute wages or salaries under KRS Chapter 337 and are not taxable as income to the volunteer firefighters under Kentucky or federal income tax laws; and

(i) The use of fire protection district equipment for activities which are for a public purpose and which do not materially diminish the value of the equipment.

(3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the ***Department of Revenue***[~~revenue cabinet~~].

(4) Such taxes shall be subject to the same delinquency date, discounts, penalties, and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected by him.

(5) Nothing contained in this subsection shall be construed to prevent the trustees of a fire protection district located in a city or county which provides emergency ambulance service from using funds derived from taxes for the purpose of providing supplemental emergency medical services so long as the mayor of the city or the county judge/executive of the county, as appropriate, certifies to the trustees in writing that supplemental emergency medical services are reasonably required in the public interest. For the purposes of this subsection, "supplemental emergency medical services" may include EMT, EMT-D, and paramedic services rendered at the scene of an emergent accident or illness until an emergency ambulance can arrive at the scene.

(6) The trustees of those fire protection districts or volunteer fire department districts whose districts or portions thereof do not receive emergency ambulance services from an emergency ambulance service district or, whose districts are not being served by an emergency ambulance service operated or contracted by a city or county government, may develop, maintain, and operate or contract for an emergency ambulance service as part of any fire department created pursuant to this chapter. No taxes levied pursuant to subsection (1) of this section shall be used to develop, maintain, operate, or contract for an emergency ambulance service until the tax year following the year the trustees of the district authorize the establishment of the emergency ambulance service.

Section 96. KRS 76.278 is amended to read as follows:

(1) In order to establish a comprehensive sewage and sewage treatment system, or storm water and surface drainage system, or both, within the sanitation tax district, the sanitation tax district through its board may levy an ad valorem tax upon the real property in the district, not exceeding limits designated by the Constitution of the Commonwealth. Provided, however, that notice stating the amount of the proposed tax and the area to be affected be published in a newspaper of bona fide circulation as provided in KRS 424.130. Provided, further, that no resolution of the board imposing an ad valorem tax shall go into effect until the expiration of thirty (30) days after the first publication of the notice. If during the thirty (30) days next following the first notice of said resolution, a petition signed by a number of constitutionally qualified voters equal to fifteen percent (15%) of the votes cast within the area affected at the last preceding general election, stating the residence of each signer, and verified as to signatures and residence by the affidavits of one (1) or more persons is presented to the county judge/executive protesting against passage of such resolution or if the fiscal court passes a resolution suspending the tax, the resolution shall be suspended from going into effect. The county judge/executive shall notify the board of the sanitation tax district of the receipt of the petition or of the suspension of the resolution or both. If the resolution is not repealed by the board, the board shall submit to the voters of the area to be taxed, at the next regularly-scheduled November election, the question as to whether the tax shall be levied. The question as it will appear on the ballot shall be filed with the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the resolution shall not go into effect. If a majority of the votes cast upon the question favor its passage, the resolution shall go into effect as of January 1 of the year succeeding the year in which the election is held.

(2) When such tax levy has been fully approved, the property valuation administrator, with the cooperation of the board shall note on the tax rolls the taxpayers and valuation of the property subject to such tax. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue[~~Cabinet~~].

(3) Such ad valorem taxes shall be collected by the sheriff in accordance with the general law and accounted for to the board. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected.

Section 97. KRS 91.4883 is amended to read as follows:

(1) Within thirty (30) days after the filing with the Circuit Court clerk of an enforcement suit for the collection of unpaid taxes under the provisions of KRS 91.484 to 91.527, the collector shall cause a notice of enforcement to be published two (2) times, once each week, during successive weeks, and on the same day of each week, otherwise in accordance with the provisions of KRS Chapter 424.

(2) Such notice shall be in substantially the following form:

NOTICE OF ENFORCEMENT OF LIEN FOR DELINQUENT LAND TAXES BY ACTION IN REM

Public Notice is hereby given that on the .... day of ...., 19......, the City of .... of .... County, Kentucky, filed a petition, being Action Number ...., in the Circuit Court of .... County, Kentucky, at .... (stating the city), for the enforcement of liens for delinquent land taxes against the real estate situated in such city, all as described in said petition.

The object of said suit is to obtain from the court a judgment enforcing the city's tax and other liens against such real estate and ordering the sale of such real estate for the satisfaction of said liens thereon (except right of redemption in favor of the United States of America if any), including principal, interest, penalties, and costs. Such action is brought against the real estate only and no personal judgment shall be entered therein.

The count number assigned by the city to each parcel of real estate, a description of each such parcel by street address and the property valuation administrator's tax parcel number (district, block, lot and sub-lot), a statement of the total principal amount of all delinquent city tax bills against each such parcel of real estate, all of which, as to each parcel, is more fully set out and mentioned by count in the aforesaid petition, and the name of any taxing authority or person of record owning or holding any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate as set out in the petition, are respectively as follows:

(Here set out the respective count numbers, property descriptions, names of taxpayers of record and statements of total principal amounts of tax bills, and names of those other interested persons of record next above referred to.)

The total principal amounts of delinquent taxes set out in this notice do not include the lawful interest, penalties, and costs which have accrued against the respective parcels of real estate.

Any person or taxing authority owning or holding any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate must file an answer to such suit in the office of the Circuit Court clerk of .... county in ...., and a copy of such answer with the city of .... in accordance with the Kentucky Rules of Civil Procedure, on or before the .... day of ...., 19 ....., and in such answer shall set forth in detail the nature and the amount of such interest and any defense or objection to the enforcement of the tax liens, or any affirmative relief he or it may be entitled to assert with respect thereto.

Any person having any right, title, or interest in or to, or lien upon, any parcel of such real estate may have the city's claims against such parcel dismissed from the action by paying all of the sums mentioned therein to the city of .... including principal, interest, penalties, and costs then due, at any time prior to the enforcement sale of such real estate by the master commissioner.

In the event of failure to answer on or before the date herein fixed as the last day for filing answer in the suit, by any person having the right to answer, such person shall be forever barred and foreclosed as to any defense or objection he might have to the enforcement of such liens for delinquent taxes and the judgment of enforcement may be taken by default. Redemption may be made for a period of sixty (60) days after the master commissioner's enforcement sale, if the sale price is less than the parcel's current assessed value as certified by the ***Department of*** Revenue[~~Cabinet~~]. Each such person having any right, title, or interest in or to, or any lien upon, any such parcel of real estate described in the petition so failing to answer or redeem, as aforesaid, shall be forever barred and foreclosed of any right, title, or interest in or to, or lien upon, or any equity of redemption in said real estate.

.............................., Kentucky
(name of city)

....
Attorney
....
....
....
Address
....
Phone
....
Date of first publication

Section 98. KRS 91.4885 is amended to read as follows:

(1) The court shall order the master commissioner to sell, pursuant to the provisions of KRS 426.560 to 426.715, except as otherwise provided in this section, each parcel separately by individual count number. The court shall further order that a report of the sale be made by the master commissioner to the court for further proceedings under the provisions of KRS

91.484 to 91.527.

(2) Prior to the master commissioner's setting each parcel for sale pursuant to court order, the collector shall file with the Circuit Court clerk an affidavit as to the most recent certified tax assessment of each parcel to be sold. The most recent certified assessment of a property shall be the property valuation administrator's last assessment which shall have been certified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~] to the county clerk, as required by KRS 133.180.

(3) The most recent certified assessment as sworn to in the affidavit furnished by the collector shall be used in all actions brought under KRS 91.484 to 91.527 to determine the owner's equity of redemption as provided by KRS 91.511(2).

Section 99. KRS 91.511 is amended to read as follows:

(1) At any time prior to the sale of the property any person having any right, title or interest in, or lien upon, any parcel of real estate described in the petition may discharge any city lien or satisfy a judgment in favor of the city as to said parcel of real estate by paying to the collector all of the sums mentioned therein, including the principal, interest, penalties, and costs then due.

(2) If the property is sold pursuant to the judgment or order of the court and does not bring its most recent assessed value certified by the ***Department of*** Revenue[~~ Cabinet~~] to the county clerk as required by KRS 133.180, the owner may redeem it within sixty (60) days from the day of the sale, by paying the purchaser the original purchase money and interest at eighteen percent (18%) per annum. Any owner who redeems his land shall take a receipt from the purchaser and lodge it with the clerk of the court. The receipt shall be entered upon the records of the court.

(3) The owner may tender the redemption money to the purchaser, his agent or attorney, if found in the county where the land lies or in the county in which the judgment was obtained or order of sale made. If the money is refused, or if the purchaser does not reside in either of the counties, the owner may, before the expiration of the right of redemption, go to the clerk of the court in which the judgment was rendered or the order made, and make affidavit of the tender and refusal, or that the purchaser or his agent or attorney do not reside in either of the counties. He may then pay to the clerk the redemption money, and the clerk shall give receipt therefor and file the affidavit among the papers of the action.

(4) When the right of redemption exists, the owner may remain in possession of the property until it expires. Real property so sold shall not be conveyed to the purchaser until the right of redemption has expired. If it is redeemed, the sale shall, from and after the redemption or from and after the deposit of the redemption money with the clerk, be null and void.

(5) In the event of failure to redeem within the period provided for redemption, the owner or any other party in interest shall be barred forever of all his right, title and interest in and to the parcel of real estate described in the petition.

(6) Upon redemption, as permitted by this section, the person redeeming shall be entitled to a certificate of redemption from the collector describing the property in the same manner as it is described in the petition and the collector shall thereupon note on his records the word "redeemed" and the date of the payment opposite the description of the parcel of real estate.

Section 100. KRS 96.820 is amended to read as follows:

(1) For the purposes of this section, unless the context requires otherwise:

- (a) "Taxing jurisdiction" shall mean each county, each school district, each municipality, and each other special taxing district located within the state.
- (b) "State" shall mean the Commonwealth of Kentucky.
- (c) "Tax equivalent" shall mean the amount in lieu of taxes computed according to this section which is required to be paid by each board to the state and to each taxing jurisdiction in which the board operates and required by subsection (11) of KRS 96.570 to be included in resale rates.
- (d) "Tax year" shall mean the twelve (12) calendar-month period ending with December 31.
- (e) "Current tax rate" shall mean the actual levied ad valorem property tax rate of the state and of each taxing jurisdiction which is applicable to all property of the same class as a board's property subject to taxation for the tax year involved.
- (f) "Book value of property" or "book value of property owned by the board" shall mean the sum of:
  - 1. The original cost (less reasonable depreciation or retirement reserve) of a board's electric plant in service on December 31 of the immediately preceding calendar year located within the state, used and held for use in the transmission, distribution, and generation of electric energy, and
  - 2. The cost of the material and supplies owned by a board on December 31 of the immediately preceding calendar year. For the purpose of this definition, "electric plant in service" shall mean those items included in the "electric plant in service" account prescribed by the Federal Energy Regulatory Commission uniform system of accounts for electric utilities, and "material and supplies" shall mean those items included in the accounts grouped under the heading "material and supplies" in the said system of accounts.
- (g) "Adjusted book value of property" or "adjusted book value of property owned by the board" shall mean the book value of property owned by the board excluding manufacturing machinery as interpreted by the ***Department of*** Revenue[~~ Cabinet~~] for franchise tax determination purposes.
- (h) The "adjustment factor" shall be one hundred twenty-five percent (125%) for the tax year 1970. For each tax year

thereafter, it shall be the duty of the ***Department of*** Revenue[~~ Cabinet~~] to compute the adjustment factor for that tax year as follows: For each five (5) percentage points or major fraction thereof by which the adjustment ratio for electric utility property for the immediately preceding tax year exceeded or was less than one hundred sixteen percent (116%), five (5) percentage points shall be added to or subtracted from one hundred twenty-five percent (125%). For the purposes of this computation, "adjustment ratio for electric utility property" shall mean the ratio of total assessed value to total property value for all public service corporations distributing electric energy to more than fifty thousand (50,000) retail electric customers within the state. "Total assessed value" shall mean the total actual cash value assigned by the ***Department of*** Revenue[~~ Cabinet~~] for ad valorem property tax purposes to the property of such corporations located within the state (properly adjusted for property under construction). "Total property value" shall mean the sum of:

1. The depreciated original cost of the total utility plant in service of such corporations within the state, and
2. The book value of material and supplies of such corporations located within the state, both as derived from published reports of the Federal Energy Regulatory Commission, or in the absence thereof, from information provided to the ***Department of*** Revenue[~~ Cabinet~~] by such corporations.

(i) "Electric operations" shall mean all activities associated with the establishment, development, administration, and operation of any electric system and the supplying of electric energy and associated services to the public, including without limitation the generation, purchase, sale, and resale of electric energy and the purchase, use, and consumption thereof by ultimate consumers.

(2) It shall be the duty of each board, on or before April 30, to certify to the ***Department of*** Revenue[~~ Cabinet~~] the book value of property owned by the board and the adjusted book value of property owned by the board and located within the state and within each taxing jurisdiction in which the board operates. A copy of the certification shall also be sent by the board to each such taxing jurisdiction. The book value of property and adjusted book value of property shall be determined, and the books and records of the board shall be kept in accordance with standard accounting practices, and the books and records of each board shall be subject to inspection by the ***Department of*** Revenue[~~ Cabinet~~] and by representatives of the affected taxing jurisdictions and to adjustment by the ***Department of*** Revenue[~~ Cabinet~~] if found not to comply with the provisions of this section. Upon the receipt of the required certification from a board, the ***Department of*** Revenue[~~ Cabinet~~] shall make any inspection and adjustment, hereinabove authorized, as it deems necessary, and no earlier than September 1 of each year the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the board and to the county clerk of each county in which the board operates the book value of property owned by the board and the adjusted book value of property owned by the board, located within each taxing jurisdiction in which the board operates and within the state. At the same time, the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the board and to the county clerk the adjustment factor for the tax year. The county clerk shall promptly certify the book value of property, the adjusted book value of property, and the adjustment factor certified by the ***Department of*** Revenue[~~ Cabinet~~], to the respective taxing jurisdiction in which the board operates.

(3) (a) Each board shall pay for each tax year, beginning with the tax year 1970, to the state and to each taxing jurisdiction in which the board operates, a tax equivalent from the revenues derived from the board's electric operations for that tax year, computed according to this subsection.

(b) The tax equivalent for each tax year payable to the state shall be the total of:

1. The book value of the property owned by the board within the state, multiplied by the adjustment factor, multiplied by the current tax rate of the state, less thirty cents (S0.30), plus
2. The state's portion of the amount payable under paragraph (d) of this subsection.

(c) The tax equivalent for each tax year payable to each taxing jurisdiction in which the board operates shall be the total of:

1. The adjusted book value of property owned by the board within the taxing jurisdiction, multiplied by the adjustment factor, multiplied by the current tax rate of the taxing jurisdiction; provided, however, for the purpose of this calculation the tax rate for school districts shall be increased by thirty cents ($0.30), plus
2. The taxing jurisdiction's portion of the amount payable under paragraph (d) of this subsection.

(d) For purposes of this subsection, "amount payable" shall mean four-tenths of one percent (0.4%) of the book value of property owned by the board located within the state. The state shall be paid the same proportion of the amount payable as the payment to the state under subparagraph 1. of paragraph (b) of this subsection represents of the total payments to the state and all taxing jurisdictions in which the board operates required by subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection. Each taxing jurisdiction in which the board operates shall be paid the same proportion of the amount payable as the payment to the taxing jurisdiction under subparagraph 1. of paragraph (c) of this subsection represents of the total payments to the state and all taxing jurisdictions in which the board operates required by subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection. Under the regulations the ***Department of*** Revenue[~~ Cabinet~~] may prescribe, upon the board's receipt from the state and taxing jurisdictions of notice of the amount due under subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection, the board shall compute the portion of the amount payable which is due the state and each taxing jurisdiction in which the board operates.

(e) Payment of the tax equivalent under this section for each tax year shall be made by each board to the state within thirty (30) days after receipt by the board of the certification from the ***Department of*** Revenue[~~ Cabinet~~] required by subsection (2) of this section and shall be made directly to each taxing jurisdiction in which the board operates within thirty (30) days from the date of the certifications by the county clerk required by subsection (2) of this section. The state and each taxing jurisdiction in which a board operates shall have a superior lien upon the proceeds of the sale of electric energy by that board for the amounts required by this section to be paid to it.

(4) Except as hereinafter provided, the tax equivalents computed under this section shall be in lieu of all state, municipal, county, school district, special taxing district, other taxing district, and other state and local taxes or charges on the tangible and intangible property, the income, franchises, rights, and resources of every kind and description of any municipal electric system operating under KRS 96.550 to 96.900 and on the electric operations of any board established pursuant thereto, and the tax equivalent for any tax year computed and payable under this section to the state or to any taxing jurisdiction in which any board operates shall be reduced by the aggregate amount of any tax or charge within the meaning of this sentence which is imposed by the state, or by any taxing jurisdiction in which a board operates, on the board, the electric system, or the board's electric operations. Provided, however, that if any school district in which property of a board is located has elected, or does hereafter elect, to apply the utility gross receipts license tax for schools to all utility services as provided by KRS 160.613 through KRS 160.617, or as may hereafter be provided by other statutes, the amount of such utility gross receipts license tax shall not reduce, or in any manner affect, the amount payable to any such board or boards under the provisions of this section. It is the intent and purpose of this provision to eliminate all sums received by any such board or boards by reason of the utility gross receipts license tax from any computation of the amount payable under this section to any such board or boards, irrespective of the manner in which that payment is computed, so that, in no event, shall any sum received by any school district by reason of the utility gross receipts license tax reduce, directly or indirectly, the amount payable to such district under this chapter. Provided, further, that if the state shall levy a statewide retail sales or use tax on electric power or energy, collected by retailers of the energy from the vendees or users thereof, and imposed at the same rate or rates as are generally applicable to the sale or use of personal property or services, including natural or artificial gas, fuel oil, and coal as well as electric power or energy, the retail sales or use tax shall not be deemed to be a tax or charge within the meaning of the first sentence of this subsection, and the tax equivalent payable for the tax year to the state under this section shall not be reduced on account of such retail sales or use tax.

(5) (a) Notwithstanding subsection (3) of this section, until the first tax year in which the total of:

1. The tax equivalent payable to the state, or to any taxing jurisdiction in which the board operates, computed under subsection (3) of this section, plus

2. The additional amounts permitted to be paid to the state or taxing jurisdiction without deduction under the second and third sentences of subsection (4) of this section, exceeds the minimum payment to the state or taxing jurisdiction specified in paragraph (b) of this subsection, the tax equivalent for each tax year payable to the state or taxing jurisdiction shall be an amount equal to the minimum payment computed under paragraph (b) of this subsection.

(b) For purposes of this subsection, the minimum payment to the state or to any taxing jurisdiction in which the board operates shall mean an amount equal to the total of:

1. The largest actual payment made by the board pursuant to this section to the state or to the taxing jurisdiction for any of the tax years 1964, 1965, or 1966, plus

2. The state's or taxing jurisdiction's pro rata share of an amount equal to four-tenths of one percent (0.4%) of the increase since July 1, 1964, in the book value of property owned by the board within the state. For the purposes of this paragraph "pro rata share" shall mean the same proportion of the amount computed under this subparagraph as the largest actual payment in lieu of taxes made by the board to the state or taxing jurisdiction for the applicable tax year under subparagraph 1. of this paragraph represents of the total amount of the largest actual payments in lieu of taxes made by the board to the state and to all taxing jurisdictions in which it operated for any of the applicable tax years.

(c) The provisions of paragraph (e) of subsection (3) of this section shall apply to all payments required under this subsection.

(d) This subsection shall not be applicable for the first tax year specified in paragraph (a) of this subsection or for any tax year thereafter, except however, that tax year 1977 shall not be deemed as the "first tax year" as specified in paragraph (a) and this subsection shall continue to apply in such cases.

Section 101. KRS 96.895 is amended to read as follows:

(1) Except for payments made directly by the Tennessee Valley Authority to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the Tennessee Valley Authority, as authorized by section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts, as provided in subsection (2) of this section.

(2) The payment to each county, city, and school district shall be determined by the proportion that the book value of Tennessee Valley Authority property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of Tennessee Valley Authority property in all such taxing districts in the Commonwealth, multiplied by their

respective tax rates, provided, however, each public school district for the purposes of this calculation shall have their tax rate increased by thirty cents ($0.30).

(3) As soon as practicable after the amount of payment to be made to the Commonwealth of Kentucky is finally determined by the Tennessee Valley Authority, the Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall determine the book value of Tennessee Valley Authority property in each county, city, and school district and shall prorate the total payments received from the Tennessee Valley Authority, except payments received directly from the Tennessee Valley Authority, among the distributees as provided in subsection (2) of this section. The ***Department of*** Revenue[~~ Cabinet~~] shall certify the payment due each taxing district to the Finance and Administration Cabinet which shall make the payment to such district.

(4) As used in subsections (2) and (3) of this section, "Tennessee Valley Authority Property" means land owned by the United States and in the custody of the Tennessee Valley Authority, together with such improvements (including work in progress but excluding temporary construction facilities) as have a fixed situs thereon if and to the extent that such improvements either:

(a) Were in existence when title to the land on which they are situated was acquired by the United States; or

(b) Are allocated by the Tennessee Valley Authority or determined by it to be allocable to power; provided, however, that manufacturing machinery as interpreted by the ***Department of*** Revenue[~~ Cabinet~~] for franchise tax determination shall be excluded along with ash disposal systems and, coal handling facilities, including railroads, cranes and hoists, crushing and conveying equipment. As used in said subsections "book value" means original cost unadjusted for depreciation as reflected in Tennessee Valley Authority's books of account. "Book value" shall be determined, for purposes of applying said subsections, as of the June 30 used by the Tennessee Valley Authority in computing the annual payment to the Commonwealth which is subject to redistribution by the Commonwealth.

(5) This section shall be applicable to all payments received after September 30, 1985, from the Tennessee Valley Authority under Section 13 of the Tennessee Valley Authority Act as amended.

Section 102. KRS 96A.320 is amended to read as follows:

(1) As used in KRS 96A.310 to 96A.370, the term "mass transportation program" shall mean the provision of necessary funds by public bodies to transit authorities created pursuant to KRS Chapter 96A with which to acquire, operate, and preserve mass transportation facilities. A "mass transportation program" may also include a method for the public body or public bodies to finance principal and interest payments on any general obligation bonds issued pursuant to KRS 96A.120, or to finance transportation-related facilities to promote the movement of vehicles and people. Urban-county governments which initiate a "mass transportation program" may include in this program the improvement of existing roads and the construction of new roads.

(2) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by additional voted levies of ad valorem taxes upon all taxable property in such public body or public bodies. Such additional voted levies of ad valorem taxes upon all taxable property in any such public body shall never exceed in the aggregate the limits prescribed by the Constitution of Kentucky for any such public body.

(3) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by voted levies of occupational license fees. Such voted levies of occupational license fees shall not exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons for work done and services performed or rendered; and

(b) The net profits of businesses, trades, professions, or occupations from activities conducted in the public body, or the transit area, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, any savings and loan association whether state or federally chartered, and in all other cases where a public body is prohibited by law from imposing a license fee.

(4) (a) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by the voted levy of a sales tax upon all retailers at a rate not to exceed one-half of one percent (0.5%) of the gross receipts of any retailer derived from "retail sales" or "sales at retail" made within the public body or public bodies, provided, however, that public transit sales tax shall not be levied on those retail sales which are exempted from the state sales tax by KRS Chapter 139 on June 19, 1976, or hereafter exempted.

(b) Any sales tax levied for said purpose shall be in addition to the sales tax authorized by Chapter 139 of the

Kentucky Revised Statutes. Said public transportation sales tax shall be collected and administered under the provisions of Chapter 139 of the Kentucky Revised Statutes and the rules and regulations of the Kentucky ***Department of*** Revenue~~[Cabinet]~~.

(5) The Kentucky ***Department of*** Revenue~~[Cabinet]~~ shall refund that portion of the sales tax collected as a public transportation tax to the public body or bodies imposing said tax.

(6) Notwithstanding any other provision contrary hereto, a mass transportation program financed by a public body or public bodies from said sales tax shall be restricted by the following order of priorities, to wit:

(a) First, the annual payment of principal, interest, and sinking fund requirements on any general obligation bonds issued pursuant to KRS 96A.120;

(b) Second, appropriations to the transit authority to provide local matching funds for any available federal or state capital, operating, or planning and demonstration grant projects in accordance with the annual approved budget; and

(c) Third, any excess funds in the control of each public body receiving said tax shall be transferred to the general fund of each such public body for public transportation and traffic improvement projects at any location within a city or county, in any manner which said public body or public bodies determine will improve transportation, road or traffic conditions, or in general will promote the movement of people and vehicles.

Section 103. KRS 99.605 is amended to read as follows:

(1) Any owner of an existing residential building, or any owner or lessee of a commercial facility, may make application to the administering agency for a property assessment or reassessment moratorium certificate. The application shall be filed within thirty (30) days before commencing restoration, repair, rehabilitation, or stabilization and shall be filed in a manner prescribed by the administering agency and on a form prescribed by the ***Department of*** Revenue~~[Cabinet]~~. The application shall contain or be accompanied by a general description of the property and a general description of the proposed use of the property, the general nature and extent of the restoration, repair, rehabilitation, or stabilization to be undertaken and a time schedule for undertaking and completing the project. If the property is a commercial facility, the application shall in addition, be accompanied by a descriptive list of the fixed building equipment which will be a part of the facility and a statement of the economic advantages expected from the moratorium, including expected construction employment.

(2) Except as otherwise provided herein, the property valuation administrator, or other assessing official, and the administering agency shall maintain a record of all applications for a property assessment or reassessment moratorium and shall assess or reassess the property within thirty (30) days of receipt of the application. The administering agency shall issue a moratorium certificate only after completion of the project. The applicant shall notify the administering agency when the project is complete and the administering agency shall then conduct an on-site inspection of the property for purposes of verifying improvements.

(3) The applicant shall have two (2) years in which to complete the improvement unless granted an extension by the administering agency. In no case shall the application be extended beyond two (2) additional years. This provision shall not preclude normal reassessment of the subject property.

(4) Any application for an assessment or reassessment moratorium not acted upon by the applicant shall become void two (2) years from the date of application and shall be purged from the files of the administering agency.

(5) An assessment or reassessment moratorium certificate may be transferred or assigned by the holder of the certificate to a new owner or lessee of the property.

Section 104. KRS 131.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Commissioner***~~[Secretary]~~" means the ***commissioner***~~[secretary]~~ of revenue.

(2) "***Department***~~[Cabinet]~~" means the ***Department of*** Revenue~~[Cabinet]~~.

(3) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any individual or corporation acting in a fiduciary capacity for any other person.

(4) "Taxpayer" means any person required or permitted by law or administrative regulation to perform any act subject to the administrative jurisdiction of the ***department***~~[cabinet]~~ including, but not limited to, the following:

(a) File a report, return, statement, certification, claim, estimate, declaration, form, or other document;

(b) Furnish any information;

(c) Withhold, collect, or pay any tax, installment, estimate, or other funds;

(d) Secure any license, permit, or other authorization to conduct a business or exercise any privilege, right, or responsibility.

(5) "Adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the board of governors of the Federal Reserve System.

(6) "Tax interest rate" means the interest rate determined under KRS 131.183.

(7) "Tax" includes any assessment or license fee administered by the ***department***[~~cabinet~~]; however, it shall not include moneys withheld or collected by the ***department***[~~cabinet~~] pursuant to KRS 131.560 or 160.627.

(8) "Return" or "report" means any properly completed and, if required, signed form, statement, certification, claim estimate, declaration, or other document permitted or required to be submitted or filed with the ***department***[~~cabinet~~], including returns and reports or composites thereof which are permitted or required to be electronically transmitted.

(9) "Reasonable cause" means an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of monies due the ***department***[~~cabinet~~] pursuant to law or administrative regulation.

(10) "Fraud" means intentional or reckless disregard for the law, administrative regulations, or established policies of the ***department***[~~cabinet~~] to evade the filing of any return, report, or the payment of any monies due to the ***department***[~~cabinet~~] pursuant to law or administrative regulation.

Section 105. KRS 131.030 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall exercise all administrative functions of the state in relation to the state revenue and tax laws, the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the ***Department of*** Revenue[~~ Cabinet~~] may commit administration of certain taxes.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall have all the powers and duties with reference to assessment or equalization of the assessment of property heretofore exercised or performed by any state board or commission.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall have all the powers and duties necessary to consider and settle tax cases under KRS 131.110 and refund claims made under KRS 134.580. The ***Department of*** Revenue[~~ Cabinet~~] is encouraged to settle controversies on a fair and equitable basis and shall be authorized to settle tax controversies based on the hazards of litigation applicable to them.

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall have all the powers and duties necessary to collect any debts owed to the Commonwealth that are referred to the ***department***[~~cabinet~~] by an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010, and by the Court of Justice in the judicial branch of state government under KRS 45.241.

Section 106. KRS 131.051 is amended to read as follows:

As used in KRS 131.041 to 131.081, unless the context requires otherwise:

(1) "Taxpayer ombudsman" means the person appointed by the ***commissioner***[~~secretary~~] of revenue to carry out the administrative functions and responsibilities relating to the Office of Taxpayer Ombudsman created pursuant to KRS 131.071.

(2) "Taxpayer representative" means any attorney, tax practitioner, or other person designated by a taxpayer to represent him before the ***department***[~~cabinet~~] in any matter relating to taxes administered by the ***department***[~~cabinet~~].

Section 107. KRS 131.061 is amended to read as follows:

In addition to all other rights or privileges afforded Kentucky taxpayers, and notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the provisions of KRS 131.041 to 131.081 shall apply with regard to all taxes administered by the ***Department of*** Revenue[~~ Cabinet~~].

Section 108. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the ***Department of*** Revenue[~~ Cabinet~~].

(1) The ***department***[~~cabinet~~] shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and ***department***[~~cabinet~~] employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(2) The ***department***[~~cabinet~~] shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the ***department***[~~cabinet~~]. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the ***department***[~~cabinet~~] distributed to the public.

(3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the ***department***[~~cabinet~~]. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.

(4) The ***department***[~~cabinet~~] shall perform audits and conduct conferences and hearings only at reasonable times and places.

(5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the ***department***[~~cabinet~~].

The ***department***[~~cabinet~~] may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of this ***department***[~~cabinet~~] recording or a transcript as provided in KRS 61.874.

(6) If any taxpayer's failure to submit a timely return or payment to the ***department***[~~cabinet~~] is due to the taxpayer's reasonable reliance on written advice from the ***department***[~~cabinet~~], the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the ***department***[~~cabinet~~] and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the ***department***[~~cabinet~~] did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the ***department's***[~~cabinet's~~] earlier written advice no longer valid.

(7) Taxpayers shall have the right to receive a copy of any audit of the ***department***[~~cabinet~~] by the Auditor of Public Accounts relating to the ***department's***[~~cabinet's~~] compliance with the provisions of KRS 131.041 to 131.081.

(8) The ***department***[~~cabinet~~] shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.

(9) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the ***department***[~~cabinet~~] of the amounts owed. The ***department***[~~cabinet~~] may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; the taxpayers' financial condition has sufficiently changed; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The ***department***[~~cabinet~~] shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the ***department***[~~cabinet~~] has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.

(10) The ***department***[~~cabinet~~] shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving ***Department of*** Revenue[~~ Cabinet~~] personnel.

(11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the ***department***[~~cabinet~~] in writing and provides a copy of the extension at the time and in the manner which the ***department***[~~cabinet~~] may require.

(12) The ***department***[~~cabinet~~] shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the ***department***[~~cabinet~~], provided the erroneous lien or levy was caused by ***department***[~~cabinet~~] error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the ***department***[~~cabinet~~] and provided information or documentation sufficient to establish his or her position. When the ***department***[~~cabinet~~] releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.

(13) The ***department***[~~cabinet~~] shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.

(14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by ***department***[~~cabinet~~] employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the ***department***[~~cabinet~~]. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the board, the ***department***[~~cabinet~~] shall be reimbursed by the taxpayer for its costs in defending the action.

(15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the ***department***[~~cabinet~~] to any person or be intentionally and without authorization inspected by any present or former ***commissioner***[~~secretary~~] or employee of the ***Department of*** Revenue[~~ Cabinet~~], member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

Section 109. KRS 131.110 is amended to read as follows:

(1) The ***Department of*** Revenue [~~Cabinet~~] shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the ***department***[~~cabinet~~] within forty-five (45) days from the date of notice. Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 131.340. The

protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the ***department***[~~cabinet~~] may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of the extension may be reviewed in the same manner as a protested assessment.

(2) After a timely protest has been filed, the taxpayer may request a conference with the ***department***[~~cabinet~~]. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.

(3) After considering the taxpayer's protest, including any matters presented at the final conference, the ***department***[~~cabinet~~] shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the ***department***[~~cabinet~~], generally state the issues in controversy, the ***department's***[~~cabinet's~~] position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Board of Tax Appeals.

(4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the ***department***[~~cabinet~~] shall issue such ruling within thirty (30) days from the date the request is received by the ***department***[~~cabinet~~].

(5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.340.

Section 110. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the ***Department of*** Revenue[~~Cabinet~~]:

(1) The ***department***[~~cabinet~~] may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The ***department***[~~cabinet~~], by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files, and equipment of any taxpayer or of any person whose records, documents, or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably necessary for purposes incident to the performance of its functions. The ***department***[~~cabinet~~] may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the ***department***[~~cabinet~~].

(3) The ***department***[~~cabinet~~] shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(4) The ***department***[~~cabinet~~] shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) Attorneys employed by the ***Finance and Administration*** Cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a ***Finance and Administration***[~~Revenue~~] Cabinet attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the ***Finance and Administration*** Cabinet or at the request of the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet, the Attorney General or his designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The ***department***[~~cabinet~~] may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the ***department***[~~cabinet~~] for administration.

(8) The ***department***[~~cabinet~~] may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the ***commissioner***[~~secretary~~] may deem wise.

(9) The ***department***[~~cabinet~~] may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.

(10) The ***department***[~~cabinet~~] may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental

assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.

(11) The ***department***[~~cabinet~~] may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the ***department***[~~cabinet~~] shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:

(a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

(b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.

Section 111. KRS 131.135 is amended to read as follows:

(1) Each employer subject to KRS Chapter 342 shall file annually with the ***Department of*** Revenue[~~ Cabinet~~], in accordance with administrative regulations, a report providing the policy number and the name and address of the employer's workers' compensation insurance carrier.

(2) The report may be made available to other state agencies notwithstanding the confidentiality provisions of KRS 131.190.

Section 112. KRS 131.140 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall requisition the Finance and Administration Cabinet to furnish to local officials an adequate supply of forms for listing property for taxation and other forms and blanks the state is required by law to provide. The books and records prescribed for use by property valuation administrators, county clerks, sheriffs and other county tax collectors shall be designed to promote economical operation, adequate control, availability of useful information, and safekeeping. The forms prescribed for listing intangible property shall be designed to secure a detailed list to provide convenient checking of valuations with available sources of information, and to safeguard the confidential character of the intangible property assessment.

(2) The ***department***[~~cabinet~~] may confer with, advise and direct local officials respecting their duties relating to taxation, and shall supervise the officials in the performance of those duties. The ***department***[~~cabinet~~] shall provide to the property valuation administrators up-to-date appraisal manuals outlining uniform procedures for appraising all types of real and personal property assessed by them. The property valuation administrators shall follow the uniform procedures for appraising property outlined in these manuals. The ***department***[~~cabinet~~] shall maintain and make accessible to all property valuation administrators a statewide commercial real property comparative sales file. The ***department***[~~cabinet~~], by authorized agents, may visit local governmental units and officers for investigational purposes, when necessary.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall conduct a biennial performance audit of each property valuation administrator's office. This audit shall include, but shall not be limited to, an inspection of maps and records, an appraisal study of real property, and an evaluation of the overall effectiveness of the office. Each property valuation administrator's office shall provide the ***department***[~~cabinet~~] with access to its files, maps and records during the audit. The ***department***[~~cabinet~~] shall prepare a report on assessment equity and quality for each county based on the performance audit, and shall provide a copy to the Legislative Research Commission.

(4) The ***department***[~~cabinet~~] shall arrange for an annual conference of the property valuation administrators, or the county officers whose duty it is to assess property for taxation, to give them systematic instruction in the fair and just valuation and assessment of property, and their duty in connection therewith. The conference shall continue not more than five (5) days. The officers shall attend and take part in the conference, unless prevented by illness or other reason satisfactory to the ***commissioner***[~~secretary~~]. Any officer willfully failing to attend the conference may be removed from office by the Circuit Court of the county where he was elected. If the officer participates in all sessions of the conference, one-half (1/2) of his actual and necessary expenses in attending the conference shall be paid by the state, and the other half shall be paid by the county from which he attends. Each officer shall prepare an itemized statement showing his actual and necessary expenses, and if it is found regular and supported by proper receipts it shall be approved by the ***department***[~~cabinet~~] before payment.

Section 113. KRS 131.150 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] reasonably believes that any taxpayer has withdrawn from the state or concealed his assets or a material part thereof so as to hinder or evade the assessment or collection of taxes, or has desisted from any taxable activity in the state, or has become domiciled elsewhere, or has departed from this state with fraudulent intent to hinder or evade the assessment or collection of taxes, or has done any other act tending to render partly or wholly ineffective proceedings to assess or collect any such taxes, or contemplates doing any of these acts in the immediate future, or that any tax claim for any other reason is being endangered, such tax liability shall become due and payable immediately upon assessment or determination of the amount of taxes due, as authorized in this section.

(2) Under any of the circumstances set out in subsection (1) of this section, the ***department***[~~cabinet~~] may make a tentative assessment or determination of the taxes due, and may proceed immediately to bring garnishment, attachment or any other legal proceedings to collect the taxes so assessed or determined to be due. Notwithstanding the provisions of KRS

131.180(1), if the tax so assessed is due to the failure of the taxpayer to file a required tax return a minimum penalty of one hundred dollars ($100) shall be assessed unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund. No bond shall be required of the ***department***[~~cabinet~~] in such proceedings. The taxpayer may stay legal proceedings by filing a bond in an amount sufficient in the opinion of the ***department***[~~cabinet~~] to cover the taxes, penalties, interest, and costs. If no legal proceedings have been instituted, the ***department***[~~cabinet~~] may require a bond adequate to cover all taxes, penalties, and interest. On making bond, exception to the assessment or determination of tax liability may be filed in the same manner and time as provided in KRS 131.110. If no exceptions are filed to the tentative assessment or determination, it shall become final.

(3) The ***department***[~~cabinet~~] may require any such taxpayer to file with it forthwith the reports required by law or regulation, or any additional reports or other information necessary to assess the property or determine the amount of tax due.

(4) If the ***department***[~~cabinet~~] fails to exercise the authority conferred by this section, such taxpayer shall report and pay all taxes due as otherwise provided by law.

Section 114. KRS 131.155 is amended to read as follows:

(1) As used in this section, the term "electronic fund transfer" means an electronic data processing medium that takes the place of a paper check for debiting or crediting an account and of which a permanent record is made.

(2) Notwithstanding any statutory provisions to the contrary, the ***department***[~~cabinet~~] may require any person who is required to collect or remit taxes and fees administered by the ***department***[~~cabinet~~] or any person who acts on the taxpayer's behalf to remit those taxes and fees to the ***department***[~~cabinet~~] by electronic fund transfer. The transfer shall be made on or before the date the tax is due using the debit method or other means as prescribed by the ***department***[~~cabinet~~] by the promulgation of an administrative regulation. The ***department***[~~cabinet~~] may permit the filing of the tax return following the date of the tax payment. Payment by electronic fund transfer may be required if:

(a) The average payment per reporting period is ten thousand dollars ($10,000) or more for each tax or fee required to be collected or remitted;

(b) The payment for each tax or fee required to be collected or remitted is made on behalf of one hundred (100) or more taxpayers; or

(c) The aggregate of the funds to be remitted on behalf of others is ten thousand dollars ($10,000) or more for each tax or fee required to be collected or remitted.

(3) The ***department***[~~cabinet~~] shall promulgate administrative regulations establishing electronic fund transfer requirements for the payment of taxes and fees administered by the ***department***[~~cabinet~~].

(4) The ***department***[~~cabinet~~] may waive the requirement that a qualifying taxpayer remit the payment by electronic fund transfer if the taxpayer is unable to remit funds electronically.

(5) Taxpayers and any other persons who are required to collect or remit taxes administered by the ***department***[~~cabinet~~] by electronic fund transfer shall be entitled to receive refunds for any overpayment of taxes or fees, on or after July 1, 2001, by electronic fund transfer.

Section 115. KRS 131.160 is amended to read as follows:

If any taxpayer required to make bond for the payment of taxes fails to pay the taxes when due, the ***department***[~~cabinet~~] shall notify him and his surety by mailing notice to their last known addresses. If, after expiration of a reasonable time from the date of the notice, the amount due remains unpaid, the ***commissioner***[~~secretary~~] shall proceed by suit to collect the amount due, including the penalties, interest and costs. The defaulting taxpayer need not be made a party to any suit brought against his surety.

Section 116. KRS 131.170 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] may, when extension is not otherwise provided for, grant a reasonable extension of time for filing reports or returns whenever, in its judgment, good cause therefor exists. The ***department***[~~cabinet~~] shall keep a record of such extensions. Except where a taxpayer is abroad, no extension shall be granted for more than six (6) months, and in no case for more than one (1) year. If any extension operates to postpone a tax payment, interest at the tax interest rate as defined in KRS 131.010(6) shall be collected. The ***department***[~~cabinet~~] may condition the extension upon a bond sufficient to cover any tax and penalty determined to be due. The ***department***[~~cabinet~~] may, on request, permit a person to file a tax return or report or pay tax on a date other than that prescribed by statute, or to change the fiscal period covered by such return or report, if the variation will not ultimately effect a reduction in revenue.

Section 117. KRS 131.175 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable directly to the ***Department of*** Revenue[~~ Cabinet~~], the sheriff or the county clerk, the ***commissioner***[~~secretary~~] shall have authority to waive the penalty, but not interest, where it is shown to the satisfaction of the ***department***[~~cabinet~~] that failure to file or pay timely is due to reasonable cause.

Section 118. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

(1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the ***department***[~~cabinet~~] shall, unless it is shown to the satisfaction of the ***department***[~~cabinet~~] that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars ($10).

(2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the ***department***[~~cabinet~~] or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the ***department***[~~cabinet~~] shall, unless it is shown to the satisfaction of the ***department***[~~cabinet~~] that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars ($10).

(3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the ***department***[~~cabinet~~] that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars ($25).

(4) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars ($100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.

(5) If any taxpayer fails or refuses to pay within forty-five (45) days of the due date any tax assessed by the ***department***[~~cabinet~~] which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.

(6) Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the ***department***[~~cabinet~~] within the time required by law shall, unless it is shown to the satisfaction of the ***department***[~~cabinet~~] that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars ($50).

(7) If any tax assessed by the ***department***[~~cabinet~~] is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.

(8) If any tax assessed by the ***department***[~~cabinet~~] is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.

(9) If any check tendered to the ***department***[~~cabinet~~] is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the ***department***[~~cabinet~~], an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars ($10) nor more than one hundred dollars ($100). If the taxpayer who tendered the check shows to the ***department's***[~~cabinet's~~] satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the ***department***[~~cabinet~~] shall waive the penalty.

(10) Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).

(11) The penalties levied pursuant to subsection (5) of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky Board of Tax Appeals or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.

(12) Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.

(13) All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the ***department***[~~cabinet~~] shall likewise be liable for all penalties and interest applicable thereto.

Section 119. KRS 131.181 is amended to read as follows:

(1) Whenever it is determined that a taxpayer, who holds a license to mine coal in Kentucky under KRS 351.175, is a "delinquent taxpayer" as defined in subsection (3) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall, after giving notice as provided in subsection (4) of this section, submit the name of the taxpayer to the Department of Mines and Minerals for revocation of the license issued under KRS 351.175.

(2) If it is determined that a person who is an agent, contract miner, or delegate of a delinquent taxpayer as defined in subsection (3) holds a license to mine coal for the delinquent taxpayer in Kentucky under KRS 351.175, the ***Department of*** Revenue[~~ Cabinet~~] shall, after giving notice as provided in subsection (4) of this section, submit the name of the agent, contract miner, or delegate to the Department of Mines and Minerals for revocation of the license issued under KRS 351.175 to mine coal for the delinquent taxpayer.

(3) Any of the following situations is sufficient to cause a taxpayer to be classified as a "delinquent taxpayer" for purposes of this section:

(a) When a taxpayer has an overdue state tax liability arising directly or indirectly from the mining, transportation, or processing of coal, for which all protest and appeal rights granted by law have expired and has been contacted by the ***department***[~~cabinet~~] concerning the overdue tax liability. This does not include a taxpayer who is making current timely installment payments on the overdue tax liability under agreement with the ***department***[~~cabinet~~].

(b) When a taxpayer has not filed a required tax return as of thirty (30) days after the due date or after the extended due date, and has been contacted by the ***department***[~~cabinet~~] concerning the delinquent return. This applies only to tax returns required as the result of the taxpayer's involvement in the mining, transportation, or processing of coal.

(c) When an owner, partner, or corporate officer of a proprietorship, partnership, or corporation holding a license under KRS 351.175, held a similar position in a business whose license was revoked as a "delinquent taxpayer", and the tax liability remains unpaid.

(4) At least twenty (20) days in advance of submitting a taxpayer's name to the Department of Mines and Minerals as provided in subsection (1) or (2) of this section, the ***department***[~~cabinet~~] shall notify the taxpayer by certified mail that the action is to be taken. The notice shall state the reason for the action and shall set out the amount of any tax liability including any applicable penalties and interest and any other area of noncompliance which must be satisfied in order to prevent the submission of his name to the Department of Mines and Minerals as a "delinquent taxpayer."

(5) If it is determined that an applicant for a license to mine coal under the provisions of KRS 351.175 is a delinquent taxpayer as defined in subsection (3) of this section, or is an agent, contract miner, or delegate of a delinquent taxpayer, the Department of Mines and Minerals shall refuse a mine license to the applicant.

Section 120. KRS 131.1815 is amended to read as follows:

(1) Whenever it is determined that a taxpayer, who holds a license under KRS Chapter 243, is a delinquent taxpayer as defined in subsection (2) of this section, the ***department***[~~cabinet~~] may, after giving notice as provided in subsection (3) of this section, submit the name of the taxpayer to the Department of Alcoholic Beverage Control for revocation of any license issued under KRS Chapter 243.

(2) Any of the following situations shall be sufficient to cause a taxpayer to be classified as a "delinquent taxpayer" for purposes of this section:

(a) When a taxpayer has an overdue state tax liability arising directly or indirectly from the manufacture, sale, transportation, or distribution of alcoholic beverages, for which all protest and appeal rights granted by law have expired, and the taxpayer has been contacted by the ***department***[~~cabinet~~] concerning the overdue tax liability. This does not include a taxpayer who is making current timely installment payments on the overdue tax liability under agreement with the ***department***[~~cabinet~~].

(b) When a taxpayer has not filed a required tax return as of ninety (90) days after the due date or after the extended due date, and the taxpayer has been contacted by the ***department***[~~cabinet~~] concerning the delinquent return.

(c) When an owner, partner, or corporate officer of a proprietorship, partnership, or corporation holding a license under KRS Chapter 243 held a similar position in a business whose license was revoked as a "delinquent taxpayer," and the tax liability remains unpaid as of ninety (90) days after the due date.

(3) At least twenty (20) days before submitting a taxpayer's name to the Department of Alcoholic Beverage Control as provided in subsection (1) of this section, the ***department***[~~cabinet~~] shall notify the taxpayer by certified mail that the action is to be taken. The notice shall state the reason for the action and shall set out the amount of any tax liability including any applicable penalties and interest and any other area of noncompliance that must be satisfied in order to prevent the submission of his name to the Department of Alcoholic Beverage Control as a delinquent taxpayer.

Section 121. KRS 131.183 is amended to read as follows:

(1) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The ***commissioner***[~~secretary~~] of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full

percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.

(2) Interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes at the rate provided in subsection (1) above. Except for the provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3) of this section, interest authorized under this subsection shall begin to accrue sixty (60) days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than five dollars ($5).

(3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the tax imposed under KRS Chapter 141 results from a carryback of a net operating loss or a net capital loss, the overpayment shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.

(4) No interest shall be allowed or paid on any sales tax refund as provided by KRS 139.536.

Section 122. KRS 131.185 is amended to read as follows:

Income tax returns shall be kept for five (5) years; primary accounting records of tax payments, seven (7) years; and records containing all data of motor vehicle registration, three (3) years. Records of the ***department***[~~cabinet~~] which are not required by this section or other statutory provisions to be preserved for a fixed period may be kept or disposed of according to the discretion of the ***department***[~~cabinet~~].

Section 123. KRS 131.190 is amended to read as follows:

(1) No present or former ***commissioner***[~~secretary~~] or employee of the ***Department of*** Revenue[~~ Cabinet~~], member of a county board of assessment appeals, property valuation administrator or employee, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the ***department***[~~cabinet~~] or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the ***commissioner***[~~secretary~~] or any employee of the ***Department of*** Revenue[~~ Cabine~~]t from testifying in any court, or from introducing as evidence returns or reports filed with the ***department***[~~cabinet~~], in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The ***commissioner***[~~secretary~~] or the ***commissioner's***[~~secretary's~~] designee may provide an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer.

(2) The ***commissioner***[~~secretary~~] shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the ***department***[~~cabinet~~] shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the ***Department of*** Revenue[~~ Cabinet~~] under the gasoline excise tax law may be made public by the ***department***[~~cabinet~~].

(4) Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present ***commissioner***[~~secretary~~] or employee of the ***Department of*** Revenue[~~ Cabinet~~], or any other person.

(5) Statistics of crude oil as reported to the ***Department of*** Revenue[~~ Cabinet~~] under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the ***Department of*** Revenue[~~ Cabinet~~] under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the ***department***[~~cabinet~~] by release to the Department of Mines and Minerals.

(6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the ***department***[~~cabinet~~] may make public or divulge only those portions of mine maps submitted by taxpayers to the ***department***[~~cabinet~~] pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

Section 124. KRS 131.191 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall not enter into any contract with the Department of Corrections, the United States Government, any local government, or any private contractor operating a correctional institution on behalf of the Department of Corrections, the United States Government, or any local government for the use or employment of prisoners in any capacity that allows prisoners access to taxpayer information, including, but not limited to, tax returns, informational reporting returns, social security numbers, telephone numbers, or addresses.

Section 125. KRS 131.192 is amended to read as follows:

Whenever it becomes necessary within the discretion of the ***commissioner***[~~secretary~~] of revenue to photostat, duplicate, publish or supply for the use and benefit of persons or agencies, other than agencies of state government, information contained in official records of the ***Department of*** Revenue[~~ Cabinet~~], whose contents are not confidential according to law, the ***Department of*** Revenue[~~ Cabinet~~] is hereby authorized to photostat, duplicate or publish the said information and supply the same to the requesting person or agency. For such services the ***department***[~~cabinet~~] may charge a fee which will be adequate to cover the expenses of photostating, duplicating or publishing such information and any expense incidental to supplying the same.

Section 126. KRS 131.194 is amended to read as follows:

All money received by the ***Department of*** Revenue[~~ Cabinet~~], for supplying to persons or agencies other than state agencies information which is contained in the official files of the ***department***[~~cabinet~~], shall be promptly deposited with the State Treasurer in the same manner as provided by law for other deposits. The amount of money so deposited shall be treated as a reimbursement to the appropriation of the ***Department of*** Revenue[~~ Cabinet~~] from which the disbursements were made for expenses incurred in performing the services authorized by KRS 131.192.

Section 127. KRS 131.205 is amended to read as follows:

(1) Any field representative of the ***Department of*** Revenue[~~ Cabinet~~] who is authorized to collect taxes or money due the Commonwealth may deposit to his special account as field representative of the ***department***[~~cabinet~~] any money so collected in a state or national bank in this Commonwealth.

(2) He shall within forty-eight (48) hours after making such deposits draw a check or checks payable to the State Treasurer for the full amount of the deposit and mail same to the ***department***[~~cabinet~~] or transmit same in a manner approved by the ***department***[~~cabinet~~]. Nothing in this section shall be construed as authorizing any field representative of the ***department***[~~cabinet~~] to enforce or cash, even for the purpose of a deposit, any check or other instrument of value payable to the Commonwealth or any agency thereof.

(3) Deposits shall be made in such banks as the ***department***[~~cabinet~~] may by regulation designate, and subject to such further conditions as the ***department***[~~cabinet~~] may prescribe. Any reasonable service charges made by the bank may be paid by the ***department***[~~cabinet~~] from its appropriation as other claims against it are paid.

Section 128. KRS 131.210 is amended to read as follows:

Any field agent, accountant or attorney, when authorized in writing by the ***commissioner***[~~secretary~~] of revenue, may investigate the accounts, books and records of all officers whose duty it is to receive or collect money due the state, county, school district or other taxing district, and report to the ***commissioner***[~~secretary~~] all delinquent officers and the amounts collected by them which they have failed to pay into the State Treasury, or into the treasury of the county, school district or other taxing district. Every such field agent, accountant or attorney shall report to the fiscal court of the county all delinquent officers and the amounts owing by them to the county and all amounts which such officers should have collected and which they failed to collect, and the person owing same. Every field agent, accountant or attorney shall report all excessive charges made by such officers, and shall report all officers who have received or retained a greater sum for their services or the services of their deputies than is allowed by law. Every field agent, accountant or attorney shall report all other facts by which any taxing authority is being unlawfully deprived of any money, and any other facts that he deems important touching the interest of any taxing authority, or of which the ***commissioner***[~~secretary~~] of revenue, county attorney, county judge/executive or fiscal court may require information.

Section 129. KRS 131.320 is amended to read as follows:

(1) Each member of the Kentucky Board of Tax Appeals shall be a person at least thirty-five (35) years of age. One (1) member shall be an attorney with the qualifications required of candidates for Circuit Judge. The other two (2) members shall be persons with a general business background except that not all of the members shall be of the same occupation or profession.

(2) The Governor may remove any member of the board for cause after giving him an opportunity for a hearing conducted in accordance with KRS Chapter 13B. If a member of the board is removed, the Governor shall file in the office of the Secretary of State a copy of the final order in the proceeding.

(3) The members of the board shall receive an annual salary to be fixed by the Governor.

(4) The principal office of the board shall be at Frankfort, Kentucky. A majority of the board may hold hearings outside of Frankfort or as provided in KRS 131.355(2), with a view to securing opportunity to taxpayers to appear before it with as little inconvenience and expense as practicable. The office of the board shall be open during regular working hours for the conduct of its business.

(5) The chairman of the Board of Tax Appeals shall conduct an orientation and training session for each new member of the

board. The chairman of the Board of Tax Appeals shall conduct an annual seminar for all three (3) members of the board to discuss new legislation, pertinent court decisions, and ***department***[~~cabinet~~] policies and procedures.

Section 130. KRS 131.340 is amended to read as follows:

(1) The Kentucky Board of Tax Appeals is hereby vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation. Administrative hearings before the Kentucky Board of Tax Appeals shall be de novo and conducted in accordance with KRS Chapter 13B.

(2) Any state or county agency charged with the administration of any taxing or licensing measure which is under the jurisdiction of the board shall mail by certified mail notice of its ruling, order, or determination within three (3) working days from the date of the decision.

(3) Any party, including the Attorney General, on behalf of the Commonwealth, aggrieved by any ruling, order, or determination of any state or county agency charged with the administration of any taxing or licensing measure, may prosecute an appeal to the board by filing a complaint or petition of appeal before the board within thirty (30) days from the date of the mailing of the agency's ruling, order, or determination.

(4) If the ***Department of*** Revenue[~~ Cabinet~~] is aggrieved by the decision of any county board of assessment appeals on an assessment recommended by the ***department***[~~cabinet~~] and prosecutes an appeal to the Kentucky Board of Tax Appeals as authorized in subsection (3) of this section, the ***commissioner***[~~secretary~~] of revenue shall, within twenty (20) days, certify in writing to the Kentucky Board of Tax Appeals the assessment recommended.

(5) The Kentucky Board of Tax Appeals shall immediately forward copies of the certification to the parties to the appeal. The assessed value shall be prima facie evidence of the value at which the property should be assessed.

Section 131. KRS 131.355 is amended to read as follows:

(1) All proceedings before the board shall be officially reported and all records of proceedings shall be public records, except in cases of appeals of unmined mineral assessments where the records before the board include information provided to the ***Department of*** Revenue[~~ Cabinet~~] by the taxpayer or its lessees, and were generated at the taxpayer's expense. Furthermore, no recorded or transcribed testimony concerning these records shall be considered a public record. Examples of these records would include, but are not limited to, mineral exploration records; photographs; core data information; maps whether acquired for ownership information, for coal seam thickness, for depletion by mining or otherwise; and/or records calculating production or reserves, leased and/or unleased. Neither records containing confidential information nor testimony concerning same shall be disclosed to parties outside the appeals proceedings. A protective order shall be entered and shall remain in effect during the entire appeals process, including appeals to the courts, and thereafter, preventing the parties, their agents and representatives, except the taxpayer, from disclosing the information.

(2) All appeals to the Kentucky Board of Tax Appeals shall be heard by the full board, but one (1) member or a hearing officer may be authorized to hear an individual appeal. The final order in any appeal heard by a single member or a hearing officer shall be made and entered by a majority of the board.

Section 132. KRS 131.400 is amended to read as follows:

(1) KRS 131.410 to 131.445 shall be known as and may be cited as the "Kentucky Tax Amnesty Act."

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall develop and administer a tax amnesty program as provided in KRS 131.410 to 131.445.

(3) As used in KRS 131.410 to 131.445, unless the context requires otherwise:

  (a) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

  (b) "Taxpayer" means any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, limited liability company, limited liability partnership, or any other entity of any kind subject to any tax set forth in subsection (4) of this section or any person required to collect any such tax under subsection (4) of this section.

  (c) "Account receivable" means an amount of state tax, penalty, fee, or interest which has been recorded as due and entered in the account records of the ***department***[~~cabinet~~], or which the taxpayer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation which the taxpayer knows is being conducted by any governmental taxing authority, federal, state, or local.

  (d) "Due and owing" means an assessment which has become final and is owed to the Commonwealth due to either the expiration of the taxpayer's appeal rights pursuant to KRS 131.110 or, if an assessment has been appealed to the board of tax appeals, the rendition of a final order by the board or by any court of this Commonwealth. For the purposes of KRS 131.410 to 131.445, assessments that have been appealed to the board of tax appeals shall be final, due and owing fifteen (15) days after the last unappealed or unappealable order sustaining the assessment or any part thereof has become final.

(4) Notwithstanding the provisions of any other law to the contrary, the tax amnesty program shall be conducted by the ***department***[~~cabinet~~] during the fiscal year ending June 30, 2003, for a period of not less than sixty (60) days nor more than one hundred and twenty (120) days and shall apply to all taxpayers owing taxes, penalties, fees, or interest subject to

the administrative jurisdiction of the ***department***~~[cabinet]~~, with the exceptions of ad valorem taxes levied on real property pursuant to KRS Chapter 132, ad valorem taxes on motor vehicles and motorboats collected by the county clerks, and ad valorem taxes on personal property levied pursuant to KRS Chapter 132 that are payable to local officials. The program shall apply to tax liabilities for taxable periods ending or transactions occurring after December 1, 1987, but prior to December 1, 2001. Amnesty tax return forms shall be in a form prescribed by the ***department***~~[cabinet]~~.

Section 133. KRS 131.410 is amended to read as follows:

(1) For any taxpayer who meets the requirements of KRS 131.420:

(a) For taxes which are owed as a result of the nonreporting or underreporting of tax liabilities or the nonpayment of any account receivable owed by an eligible taxpayer, the Commonwealth shall waive criminal prosecution and all civil penalties and fees which may be assessed under any KRS chapter subject to the administrative jurisdiction of the ***department***~~[cabinet]~~ for the taxable years or periods for which tax amnesty is requested, plus all of the interest as provided in subsection (1) of KRS 131.425.

(b) With the exception of instances in which the taxpayer and ***department***~~[cabinet]~~ enter into an installment payment agreement authorized under subsection (3) of KRS 131.420, The failure to pay all taxes as shown on the taxpayer's amnesty tax return shall invalidate any amnesty granted pursuant to KRS 131.410 to 131.445.

(2) This section shall not apply to any taxpayer who is on notice, written or otherwise, of a criminal investigation being conducted by an agency of the state or any political subdivision thereof or the United States, nor shall this section apply to any taxpayer who is the subject of any criminal litigation which is pending on the date of the taxpayer's application in any court of this state or the United States for nonpayment, delinquency, evasion or fraud in relation to any federal taxes or to any of the taxes to which this amnesty program is applicable.

(3) No refund or credit shall be granted for any interest, fee, or penalty paid prior to the time the taxpayer requests amnesty pursuant to KRS 131.420.

(4) Unless the ***department***~~[cabinet]~~ in its own discretion redetermines the amount of taxes due, no refund or credit shall be granted for any taxes paid under the amnesty program.

Section 134. KRS 131.420 is amended to read as follows:

(1) The provisions of KRS 131.400 to 131.445 shall apply to any eligible taxpayer who files an application for amnesty within the time prescribed by the ***department***~~[cabinet]~~ and does the following:

(a) Files completed tax returns for all years or tax reporting periods as stated on the application for which returns have not previously been filed and files completed amended tax returns for all years or tax reporting periods as stated on the application for which the tax liability was underreported, except in cases in which the tax liability has been established through audit.

(b) Pays in full the taxes due for the periods and taxes applied for at the time the application or amnesty tax returns are filed within the amnesty period and pays the amount of any additional tax owed within thirty (30) days of notification by the ***department***~~[cabinet]~~.

(c) Pays in full within the amnesty period all taxes previously assessed by the ***department***~~[cabinet]~~ that are due and owing at the time the application or amnesty tax returns are filed.

(2) An eligible taxpayer may participate in the amnesty program whether or not the taxpayer is under audit, notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the ***department***~~[cabinet]~~, and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. An eligible taxpayer may participate in the amnesty program to the extent of the uncontested portion of any assessed liability. However, participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under the program is barred with respect to the amounts paid with the application or amnesty returns.

(3) The ***department***~~[cabinet]~~ may enter into an installment payment agreement as provided in KRS 131.081(9) in cases of severe hardship in lieu of the complete payment required under subsection (1) of this section. Failure of the taxpayer to make timely payments shall void the terms of the amnesty program. All such agreements and payments shall include interest as provided under subsection (2) of KRS 131.425.

(4) If, following the termination of the tax amnesty period, the ***department***~~[cabinet]~~ issues a deficiency assessment based upon information independent of that shown on a return filed pursuant to subsection (1) of this section, the ***department***~~[cabinet]~~ shall have the authority to impose penalties and criminal action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty tax return and the correct amount of tax due. The imposition of penalties or criminal action shall not invalidate any waiver granted under KRS 131.410. With the exception of the cost of collection fee imposed under subsection (1) of KRS 131.440, all assessments issued by the ***department***~~[cabinet]~~ under KRS 131.410 to 131.445 may be protested by the taxpayer in the same manner as other assessments pursuant to the terms of this chapter.

Section 135. KRS 131.430 is amended to read as follows:

The ***department***~~[cabinet]~~ shall promulgate administrative regulations as necessary, issue forms and instructions, and take all actions necessary to implement the provisions of KRS 131.410 to 131.445. The ***department***[~~cabinet~~] shall extensively publicize the tax amnesty program in order to maximize the public awareness of and participation in the program.

Section 136. KRS 131.440 is amended to read as follows:

(1) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, and 131.990 and any other law, there is hereby imposed after the expiration of the tax amnesty period the following cost of collection fees:

(a) A cost of collection fee of twenty-five percent (25%) on all taxes which are or become due and owing to the ***department***[~~cabinet~~] for any reporting period, regardless of when due. This fee shall be in addition to any other applicable fee provided in this subsection;

(b) Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to December 1, 2001, shall be charged a cost of collection fee of twenty-five percent (25%) at the time of assessment; and

(c) For any taxpayer who failed to file a return for any previous tax period for which amnesty is available and fails to file the return during the amnesty period, the cost of collection fee shall be fifty percent (50%) of any tax deficiency assessed after the amnesty period.

(2) The ***commissioner***[~~secretary~~] of revenue shall have the right to waive any penalties or collection fees when it is demonstrated that any deficiency of the taxpayer was due to reasonable cause as defined in KRS 131.010(9). However, any taxes that cannot be paid under the amnesty program because of the exclusions in subsection (2) of KRS 131.410 shall not be subject to these fees.

(3) The provisions of subsection (1) of this section shall not relate to any account which has been protested pursuant to KRS 131.110 as of the expiration of the amnesty period and which does not become due and owing, or to any account on which the taxpayer is remitting timely payments under a payment agreement negotiated with the ***department***[~~cabinet~~] prior to or during the amnesty period.

(4) The fee levied under subsection (1) of this section shall not apply to taxes paid pursuant to the terms of the amnesty program nor shall the judgment penalty of twenty percent (20%) levied under KRS 135.060(3) apply in any case in which the fee levied under this section is applicable.

Section 137. KRS 131.445 is amended to read as follows:

(1) After the expiration of the tax amnesty period, the ***department***[~~cabinet~~] shall vigorously pursue all civil, administrative, and criminal penalties authorized by state and federal law for all taxes found to be due the Commonwealth.

(2) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, and 131.990 and any other law, any taxpayer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.

Section 138. KRS 131.500 is amended to read as follows:

(1) In addition to any other remedy provided by the laws of the Commonwealth, if any person has been assessed for a tax the collection of which is administered by the ***Department of*** Revenue[~~ Cabinet~~] as provided by the laws of the Commonwealth and if the person has not sought administrative or judicial review of the assessment as provided for in KRS 131.110, or if the person has sought but exhausted all administrative and judicial review so that the assessment is final, due, and owing, the ***commissioner***[~~secretary~~] of revenue or his delegate may cause a demand to be made on the person for the payment thereof. If the tax remains unpaid for thirty (30) days after the demand, the ***commissioner***[~~secretary~~] or his delegate may levy upon and sell all property and rights to property found within the Commonwealth belonging to the person or on which there is a lien provided by KRS 134.420, except the property that is exempt from an execution on a judgment in favor of the Commonwealth as provided in KRS Chapter 427, for the payment of the amount of the tax, penalty, interest, and cost of the levy.

(2) As soon as practicable after seizure of property, notice in writing shall be given by the ***commissioner***[~~secretary~~] or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his last known address. The notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(3) The ***commissioner***[~~secretary~~] or his delegate shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county wherein such seizure is made. The notice shall be published once each week for three (3) successive weeks. In addition, the notice shall be posted at the courthouse and three (3) other public places in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.

(4) If any property liable to levy is not divisible, so as to enable the ***commissioner***[~~secretary~~] or his delegate by sale of a part thereof to raise the whole amount of the tax, penalty, interest, and cost of the levy, the whole of the property shall be sold.

(5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the

commissioner~~[secretary]~~.

(6) The sale shall not be conducted in any manner other than by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the ***commissioner***~~[secretary]~~ or his delegate may offer the items for sale separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.

(7) The ***commissioner***~~[secretary]~~ or his delegate shall determine whether payment in full shall be required at the time of acceptance of a bid, or whether a part of the payment may be deferred for such period, not to exceed one (1) month, as he may determine to be appropriate. If payment in full is required at the time of acceptance of a bid and is not then and there paid, the ***commissioner***~~[secretary]~~ or his delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin Circuit Court or the Circuit Court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the ***commissioner***~~[secretary]~~, the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. If readvertisement and sale occur, any new purchaser shall receive the property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by the defaulting purchaser shall be forfeited.

(8) If the ***commissioner***~~[secretary]~~ or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense, he shall appraise the value of the property and, if the owner of the property can be readily found, the ***commissioner***~~[secretary]~~ or his delegate shall give him notice of the determination of the appraised value of the property. The property shall be returned to the owner if, within the time specified in the notice, the owner pays to the ***commissioner***~~[secretary]~~ or his delegate an amount equal to the appraised value, or gives bond in the form, with the sureties, and in the amount as the ***commissioner***~~[secretary]~~ or his delegate determines to be appropriate in the circumstances. If the owner does not pay the amount or furnish the bond in accordance with this subsection, the ***commissioner***~~[secretary]~~ or his delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.

(9) No proceedings under this section shall be commenced more than ten (10) years after the assessment becomes final.

(10) The term "levy" as used in this section shall include the power of distraint and seizure by any means. Except as otherwise provided in KRS 131.510(2)(a), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the ***commissioner***~~[secretary]~~ or his delegate may levy upon property or rights to property, he may seize and sell the property or rights whether real, personal, tangible or intangible.

(11) Notwithstanding the provisions of KRS Chapters 45, 45A, and 56, the ***department***~~[cabinet]~~ may take all necessary steps to provide for the protection, maintenance, or transportation of all property seized by the ***department***~~[cabinet]~~ pursuant to the provisions of this section, including, but not limited to, negotiating directly for the procurement of contractual services, including professionals, supplies, materials, equipment, or the leasing of real and personal property. Every effort shall be made to effect a competitively established price for purchases made pursuant to this section. The ***department***~~[cabinet]~~ shall report any procurements of contractual services, supplies, materials, equipment, or the leasing of real and personal property, to the secretary of the Finance and Administration Cabinet within sixty (60) days of the transaction. Nothing in this section shall preclude the ***department***~~[cabinet]~~ from complying with the provisions of KRS Chapters 45 and 56 relating to the requirements to report the purchase or lease of real property or equipment to the Capital Projects and Bond Oversight Committee.

Section 139. KRS 131.510 is amended to read as follows:

(1) Levy may be made with respect to any unpaid tax only after the ***department***~~[cabinet]~~ has given notice and demand to such person in writing of the intention to make such levy. Such notice and demand shall be given in person, or shall be sent by certified mail to such person's last known address, no less than ten (10) days before the date of levy.

(2) (a) The effect of a levy on salary or wages payable to or received by a person shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

(b) With respect to a levy described in paragraph (a) of this subsection, the ***department***~~[cabinet]~~ shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released.

Section 140. KRS 131.520 is amended to read as follows:

(1) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made shall, upon demand of the ***commissioner***~~[secretary]~~ or his delegate, surrender such property or rights or discharge such obligation to the ***commissioner***~~[secretary]~~ or his delegate, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(2) Any person who fails or refuses to surrender any property or rights to property subject to levy shall be liable in his own person and estate to the Commonwealth in a sum equal to the value of the property or rights not so surrendered, but not

exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of twelve percent (12%) per annum from the date of such levy. Any amount other than costs recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(3) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made who, upon demand by the ***commissioner***[~~secretary~~] or his delegate, surrenders such property or rights to property or discharges such obligation to the ***commissioner***[~~secretary~~] or his delegate shall be discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property arising from such surrender or payment.

Section 141. KRS 131.530 is amended to read as follows:

(1) Any person whose property has been levied upon shall have the right to pay the amount due, together with the expense of the proceeding, to the ***commissioner***[~~secretary~~] or his delegate at any time prior to the sale thereof and upon such payment the ***commissioner***[~~secretary~~] or his delegate shall cause such property to be restored to him and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(2) The owner of any real property sold as provided in KRS 131.500(1), his heirs, executors, or administrators, or any person having an interest therein, or a lien thereon, or any person in his behalf, shall be permitted to redeem the real property sold or any particular tract of such property, at any time within one hundred twenty (120) days after the date of the sale. Such property or tract of property shall be permitted to be redeemed only upon payment to the purchaser, or in case he cannot be found in the county in which the property to be redeemed is situated, then to the ***commissioner***[~~secretary~~] or his delegate, for the use of the purchaser, his heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of twenty percent (20%) per annum from the date of sale.

(3) In the case of property sold pursuant to KRS 131.500(1), the ***commissioner***[~~secretary~~] or his delegate shall give to the purchaser a certificate of sale upon payment in full of the purchase price. The certificate shall set forth a description of the property purchased, for whose taxes the property was sold, and the price paid therefor.

(4) In all cases where property is sold pursuant to KRS 131.500(1), except real property, the certificate of sale issued pursuant to subsection (3) of this section shall have the following effect:

(a) Shall be prima facie evidence of the rights of the ***commissioner***[~~secretary~~] or his delegate to make such sale, and of the regularity of the proceeding of the sale; and

(b) Shall transfer to the purchaser all right, title and interest of the taxpayer in and to the property sold; and

(c) If such property consists of stock, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any prior certificate, which shall be void, whether canceled or not; and

(d) If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(e) If such property consists of a motor vehicle, shall be notice, when received by any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior title, which shall be void, whether canceled or not.

(5) In the case of any real property sold pursuant to KRS 131.500(1) and not redeemed in the manner and within the time provided in subsection (2) of this section, the ***commissioner***[~~secretary~~] or his delegate shall execute in accordance with the laws of the Commonwealth, to the purchaser of such real property upon surrender of the certificate of sale, a deed to the real property so purchased by him, reciting the facts set forth in the certificate. The deed executed pursuant to this subsection shall have the following effect:

(a) Shall be prima facie evidence of the rights of the ***commissioner***[~~secretary~~] or his delegate to make such sale, and of the regularity of the proceedings of the sale; and

(b) If the proceedings of the ***commissioner***[~~secretary~~] or his delegate have been substantially in accordance with the provisions of KRS 131.500, such deed shall be considered and operate as a conveyance of all right, title and interest the taxpayer has in and to the real property thus sold at the time the lien of the Commonwealth attached thereto.

(6) A certificate of sale of personal property given or a deed to real property executed pursuant to this section shall discharge such property from all liens, encumbrances, and titles over which the lien of the Commonwealth, with respect to which the levy was made, had priority.

Section 142. KRS 131.540 is amended to read as follows:

(1) It shall be lawful for the ***commissioner***[~~secretary~~] or his delegate, under regulations prescribed by the ***commissioner***[~~secretary~~], to release the levy upon all or part of the property or rights to property levied upon where the ***commissioner***[~~secretary~~] or his delegate determines that such action will facilitate the collection of the liability, but such

release shall not operate to prevent any subsequent levy.

(2) If the ***commissioner***[~~secretary~~] determines that property has been wrongfully levied upon, it shall be lawful for the ***commissioner***[~~secretary~~] to return the specific property levied upon, or an amount of money equal to the amount of money levied upon, or any amount of money equal to the amount of money received by the ***commissioner***[~~secretary~~] from a sale of such property.

(3) Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of four (4) years from the date of such levy.

Section 143. KRS 131.550 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] reasonably believes that any taxpayer has divested himself by gift, conveyance, assignment, transfer of, or charge upon any property, whether real, personal, tangible or intangible, with the intent to hinder or evade the collection of any tax assessed or to be assessed by the ***department***[~~cabinet~~] or declared by the taxpayer on a return filed with the ***department***[~~cabinet~~], any transferee of such property may be assessed by the ***Department of*** Revenue[~~ Cabinet~~] an amount equal to the lesser of the amount of tax assessed against the transferor taxpayer or the fair market value of the property so transferred. However, no assessment shall be made pursuant to this section against a transferee who takes the property for full and valuable consideration in money or money's worth, unless it appears that such transferee had notice of the intent of the transferor taxpayer to hinder or evade the collection of any tax.

(2) Any assessment made by the ***Department of*** Revenue[~~ Cabinet~~] against a transferee pursuant to subsection (1) of this section is, except as provided in this section, subject to the same provisions and limitations as in the case of the taxes for which the liabilities were incurred.

(3) The period of limitation for assessment of any liability against a transferee pursuant to subsection (1) of this section shall be as follows:

  (a) In the case of an initial transferee, within one (1) year after the expiration of the period of limitation for assessment against the transferor taxpayer; and

  (b) In the case of the liability of a transferee of a transferee, within one (1) year after the expiration of the period of limitation for assessment against the preceding transferee, but not more than three (3) years after the expiration of the period of limitation for assessment against the initial transferor taxpayer.

(4) The notice of any assessment against a transferee made pursuant to subsection (1) of this section shall be either given to the transferee in person or sent by mail to such transferee's last known address.

Section 144. KRS 131.560 is amended to read as follows:

Notwithstanding the provisions of KRS 44.030 or 131.190, the ***Department of*** Revenue[~~ Cabinet~~] shall withhold the Kentucky individual income tax refund otherwise due a taxpayer under KRS Chapter 141 who owes overdue child support or is indebted to any state agency, officer, board, commission, corporation, institution, cabinet, department or other state organization which has complied with the requirements of KRS 131.565. After satisfaction of any undisputed delinquent tax liability due the ***Department of*** Revenue [~~Cabinet~~]from such taxpayer, the tax refund balance so withheld shall, except as provided in KRS 131.565, be transmitted as soon as practicable to the state agency having established a claim therefor. In the case of multiple state agency claims against the same tax refund, the agency having the larger pending claim shall have priority after satisfaction of any undisputed delinquent tax liabilities due the ***Department of*** Revenue[~~ Cabinet~~].

Section 145. KRS 131.565 is amended to read as follows:

(1) For purposes of this section, "state agency" or "state agencies" shall include the Court of Justice as defined in KRS 45.241.

(2) No state agency shall request the withholding of any individual income tax refund unless there is specific provision in statute or administrative regulation for debtor appeal and hearing rights for that particular debt.

(3) State agencies having the statutory and regulatory provisions described in subsection (2) of this section shall establish claims against Kentucky individual income tax refunds by notifying the ***commissioner***[~~secretary~~] of revenue in writing by a date established by the ***Department of*** Revenue[~~ Cabinet~~] and, by dates agreed to by the ***Department of*** Revenue[~~ Cabinet~~] and each state agency, shall furnish a list of all liquidated debts due the agency for which withholding is required for individual income tax refunds due to be paid to the debtor of the claimant agency. This list shall be submitted in such form and contain such information as may be required by the ***commissioner***[~~secretary~~] of revenue to facilitate identification of the refunds to be withheld. As used in this section the term "liquidated debt" means a legal debt for a sum certain, which has been certified by the claimant agency as final due and owing. The claimant agency must have made reasonable efforts to collect such debt, and must have provided the debtor the opportunity for appeal and formal hearing as provided by statute. The claimant agency shall send thirty (30) days' prior written notification to the debtor of the intention to submit the claim to the ***Department of*** Revenue[~~ Cabinet~~] for setoff as provided in KRS 131.570.

(4) The individual income tax refund withholding procedures provided in KRS 131.560 to 131.595 shall be in lieu of the procedures set forth in KRS 427.130 and 44.030 only with regard to sums due to a debtor from the ***Department of*** Revenue[~~ Cabinet~~].

(5) No state agency shall request the withholding of any individual income tax refund unless the debt for which withholding is requested is in a liquidated amount.

(6) Each state agency requesting the withholding of any individual income tax refund shall indemnify the ***Department of*** Revenue[~~ Cabinet~~] against any and all damages, court costs, attorneys fees and any other expenses related to litigation which arises concerning the administration of KRS 131.560 to 131.595 as it pertains to a refund withholding action requested by such agency.

(7) Those state agencies requesting the withholding of individual income tax refunds shall, on a per unit cost or other equitable basis determined by the ***Department of*** Revenue[~~ Cabinet~~], reimburse the ***Department of*** Revenue[~~ Cabinet~~] for all development, implementation and administration costs incurred but not otherwise funded under the provisions of KRS 131.560 to 131.595.

(8) The ***Department of*** Revenue[~~ Cabinet~~] may decline the withholding of individual income tax refunds from agencies if the request would adversely impact the operation of the ***Department of*** Revenue[~~ Cabinet~~].

Section 146. KRS 131.570 is amended to read as follows:

(1) Upon determining that a pending individual income tax refund is subject to setoff as authorized under this section, the debtor shall be notified in writing by the ***Department of*** Revenue[~~ Cabinet~~] of the claim made against such refund by the named claimant agency, and of the ***Department of Revenue's***[~~Revenue Cabinet's~~] intention to set off the refund against the debt to the claimant agency. The notice shall provide that the debtor within thirty (30) days from the date of the notice may request a hearing before the claimant agency as provided by statute. No issues at such hearing may be considered that have been litigated previously and the debtor, after being given due notice of rights of appeal, must exercise such rights in a timely manner. The decision of the claimant agency shall be subject to appeal as all other decisions rendered by the claimant agency. No funds shall be transferred to a claimant agency until the debtor's appeal rights have been exhausted.

(2) Any excess of the pending refund amount over the total claim filed against such refund shall be promptly issued to the taxpayer by the ***Department of*** Revenue[~~ Cabinet~~].

(3) In the event funds transmitted to a claimant agency are subsequently determined by the claimant agency to be in excess of the liquidated debt, such claimant agency shall promptly refund the excess to the taxpayer.

(4) In the event the ***Department of*** Revenue[~~ Cabinet~~] erroneously transfers funds to a claimant agency, the claimant agency shall immediately upon notification thereof reimburse the ***Department of*** Revenue[~~ Cabinet~~] for the amount erroneously transmitted to such agency. The ***Department of*** Revenue[~~ Cabinet~~] shall promptly refund to the taxpayer the appropriate amount of such returned funds with interest as provided in KRS 131.183(2).

Section 147. KRS 131.575 is amended to read as follows:

(1) Any individual income tax refund determined as a consequence of taxpayers filing separate returns on a combined Kentucky individual income tax form may be apportioned by the ***Department of*** Revenue[~~ Cabinet~~] between the spouses based on the ratio of the adjusted gross incomes of each spouse to the total adjusted gross income. The amount of the refund computed to be due the spouse who is not indebted to the claimant agency shall be refunded by the ***Department of*** Revenue[~~ Cabinet~~] to such spouse. In the event such refunded amount has been transmitted to the claimant agency, the ***Department of*** Revenue[~~ Cabinet~~] shall recover such amount from the claimant agency as provided in KRS 131.570(4).

(2) Any individual income tax refund determined as a consequence of taxpayers filing a joint Kentucky individual income tax return shall be deemed as coupled together in interest or liability and shall be subject to transfer to a claimant agency in its entirety.

Section 148. KRS 131.580 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] may promulgate rules and regulations necessary to develop, implement and administer the provisions of KRS 131.560 to 131.595.

Section 149. KRS 131.585 is amended to read as follows:

There is hereby created within the ***Department of*** Revenue[~~ Cabinet~~] a state debt offset account, which will be subject to the provisions of the restricted fund group, as provided in KRS 48.010(13)(f), and all funds collected under KRS 131.565(6) shall be credited thereto with only the expenses of the ***Department of*** Revenue[~~ Cabinet~~] related to development,' implementation and administration of KRS 131.560 to 131.595 to be paid therefrom. This account shall not lapse.

Section 150. KRS 131.600 is amended to read as follows:

As used in this section and KRS 131.602:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(3) "Allocable share" means allocable share as that term is defined in the master settlement agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use,

and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

The term "cigarette" includes "roll-your-own", i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," nine-hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

(5) "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with KRS 131.602(2).

(7) "Released claims" means released claims as that term is defined in the master settlement agreement.

(8) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

(9) "Tobacco product manufacturer" means an entity that after June 30, 2000, directly and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection.

(10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by Kentucky on packs or "roll-your-own" tobacco containers bearing the excise tax stamp of Kentucky. The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section 151. KRS 131.590 is amended to read as follows:

To defray the cost of development and implementation of KRS 131.560 to 131.595, there shall be credited to the state debt offset account an amount not to exceed $175,000, such amount to be derived from the amount of the Kentucky individual income tax refunds withheld under the provisions of KRS 131.560 to 131.595 for undisputed delinquent taxes due the ***Department of*** Revenue[~~ Cabinet~~].

Section 152. KRS 131.600 is amended to read as follows:

As used in this section and KRS 131.602:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(3) "Allocable share" means allocable share as that term is defined in the master settlement agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

The term "cigarette" includes "roll-your-own", i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," nine-hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

(5) "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with KRS 131.602(2).

(7) "Released claims" means released claims as that term is defined in the master settlement agreement.

(8) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

(9) "Tobacco product manufacturer" means an entity that after June 30, 2000, directly and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection.

(10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by Kentucky on packs or "roll-your-own" tobacco containers bearing the excise tax stamp of Kentucky. The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section 153. KRS 131.604 is amended to read as follows:

As used in KRS 131.604 to 131.630:

(1) "Brand family" means all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to menthol, lights, kings, and 100's, and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) "Distributor" means a person, wherever residing or located, who purchases nontax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes. This includes resident wholesalers, nonresident wholesalers, and unclassified acquirers as defined in KRS 138.130.

(3) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(4) "Participating manufacturer" has the meaning given the term in Section II(jj) of the master settlement agreement and all amendments thereto.

(5) "Stamping agent" means a person, including a distributor, that is authorized to affix tax stamps to packages or other containers or cigarettes pursuant to KRS 138.146 or any person that is required to pay the excise tax imposed pursuant to KRS 138. 155.

(6) "Master settlement agreement" has the same meaning as in KRS 131.600.

(7) "Cigarette" has the same meaning as in KRS 131.600.

(8) "***Commissioner***[~~Secretary~~]" means the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~].

(9) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(10) "Tobacco product manufacturer" has the same meaning as in KRS 131.600.

(11) "Units sold" has the same meaning as in KRS 131.600.

(12) "Qualified escrow fund" has the same meaning as in KRS 131.600.

Section 154. KRS 131.610 is amended to read as follows:

(1) The Attorney General shall develop and make available to the ***department***[~~cabinet~~] for public inspection, to include publishing on the ***department's***[~~cabinet's~~] website, a listing of all tobacco product manufacturers that have provided current and accurate certifications pursuant to KRS 131.608 and all brand families that are listed in the certifications. The listing shall be referred to as the "directory" and completed no later than July 1 of each certification year.

(2) The ***department***[~~cabinet~~] shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the Attorney General determines is not in compliance with KRS 131.608, unless the Attorney General has determined that such violation has been satisfactorily cured.

(3) Neither a tobacco product manufacturer nor a brand family shall be included or retained in the directory if the Attorney General determines, in the case of a nonparticipating manufacturer, that:

(a) Any escrow payment required pursuant to KRS 131.602 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General; or

(b) Any outstanding final judgment, including interest thereon, for a violation of KRS 131.602 has not been fully satisfied for the brand family or the manufacturer.

(4) Upon receipt of information from the Attorney General, the ***department***[~~cabinet~~] shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this section and KRS 131.608 and 131.620. The ***department***[~~cabinet~~] shall transmit, by electronic mail or other practicable means, notice to each stamping agent and distributor of any addition to or removal from the directory of any tobacco product manufacturer or brand family.

(5) Every stamping agent and distributor shall provide and update as necessary an electronic mail address to the ***department***[~~cabinet~~] for the purpose of receiving any notifications that may be required by this section and KRS 131.608, 131.616, 131.620, and 131.624.

(6) Notwithstanding the provisions of subsections (2) and (3) of this section, in the case of any nonparticipating manufacturer who has established a qualified escrow account pursuant to KRS 131.602 that has been approved by the Attorney General, the Attorney General may not remove the manufacturer or its brand families from the directory unless the manufacturer has been given at least thirty (30) days' notice of the intended action. For the purposes of this section, notice shall be deemed sufficient if it is sent either electronically to an electronic-mail address or by first class to a postal mailing address provided by the manufacturer in its most recent certification filed pursuant to KRS 131.608. The notified nonparticipating manufacturer shall have thirty (30) days from receipt of the notice to comply. At the time that the Attorney General sends notice of his or her intent to remove the manufacturer from the directory, the Attorney General shall post the notice in the directory.

Section 155. KRS 131.616 is amended to read as follows:

On or before the twentieth day of each month, each stamping agent and distributor shall submit documentation that the ***commissioner***[~~secretary~~] requires to facilitate compliance with this section, including but not limited to a list by brand family of the total number of cigarettes for which the stamping agent or distributor affixed stamps during the previous calendar month or otherwise paid the tax due for the cigarettes. The stamping agent or distributor shall maintain, and make available to the ***commissioner***[~~secretary~~], all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the ***commissioner***[~~secretary~~] for a period of five (5) years.

Section 156. KRS 131.618 is amended to read as follows:

(1) Notwithstanding KRS 131.190, the ***commissioner***[~~secretary~~] is authorized to disclose to the Attorney General the name and address of a stamping agent or distributor and the number of sticks by brand name that have been purchased from a nonparticipating manufacturer and have been stamped with Kentucky stamps by that agent or distributor. The Attorney General may share this information with other federal, state, or local agencies only for the purposes of enforcement of KRS 131.602 and 131.604 to 131.630 or corresponding laws of other states. The Attorney General is further authorized to disclose to a nonparticipating tobacco product manufacturer this information that has been provided by a stamping agent regarding the purchases from that manufacturer. This information provided by a stamping agent may be used in any enforcement action against the nonparticipating manufacturer by the Attorney General.

(2) In addition to the information required to be submitted pursuant to KRS 131.608, 131.614, and 131.620, the Attorney General or the ***commissioner***[~~secretary~~] may require a stamping agent, distributor, or tobacco product manufacturer to submit any additional information including but not limited to samples of the packaging or labeling of each brand family

as is necessary to enable the Attorney General to determine whether a tobacco product manufacturer is in compliance with KRS 131.604 to 131.630.

Section 157. KRS 131.622 is amended to read as follows:

(1) Any cigarettes that have been affixed with a stamp in this state in violation of KRS 131.612 shall be deemed contraband and subject to seizure and forfeiture pursuant to KRS 138.165. Cigarettes seized in accordance with this section shall be destroyed and not resold.

(2) The Attorney General may seek an injunction to restrain a violation of KRS 131.612 or 131.616 by a distributor or stamping agent and to compel the distributor or stamping agent to comply with KRS 131.612 and 131.616. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees from any distributor or stamping agent found to be in violation of KRS 131.612 or 131.616.

(3) No stamping agent or distributor shall sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the stamping agent knows are intended for distribution or sale in the state in violation of KRS 131.612. A violation of this section is a Class A misdemeanor.

(4) Nothing in this section shall prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state.

(5) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated KRS 131.612 or any regulation adopted pursuant to KRS 131.604 to 131.630, the ***commissioner***[~~secretary~~] may suspend the sale of cigarette stamps to the stamping agent or distributor for failure to comply with the provisions of KRS 131.604 to 131.630.

Section 158. KRS 131.624 is amended to read as follows:

(1) Any person aggrieved by a determination of the Attorney General to not include or to remove from the directory created in KRS 131.610 a brand family or tobacco product manufacturer may appeal the determination to the Franklin Circuit Court, or to the Circuit Court of the county in which the aggrieved party resides or conducts his place of business. For the purposes of a temporary injunction sought pursuant to this subsection, loss of the ability to sell tobacco products as a result of removal from the directory may be deemed to constitute irreparable harm.

(2) No person shall be issued a license or granted a renewal of a license to act as a distributor or stamping agent unless the person is in compliance with the provisions of KRS 131.604 to 131.630.

(3) The Attorney General or the ***department***[~~cabinet~~] may promulgate administrative regulations necessary to effect the purposes of KRS 131.604 to 131.630.

Section 159. KRS 131.630 is amended to read as follows:

(1) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated any provision of KRS 131.604 to 131.630 or any administrative regulation promulgated thereunder, the ***commissioner***[~~secretary~~] may revoke or suspend the license of any stamping agent or distributor pursuant to KRS 138.195 and 138.205.

(2) Each stamp affixed in violation of KRS 131.612 shall constitute a separate violation. The ***commissioner***[~~secretary~~] may impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes sold or five thousand dollars ($5,000) upon a determination of a violation of KRS 131.612 or any administrative regulations promulgated thereunder. The penalty shall be imposed in the manner provided by KRS 138.195 and 138.205.

Section 160. KRS 131.650 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary, the ***department***[~~cabinet~~] may publish a list or lists of taxpayers that owe delinquent taxes or fees administered by the ***Department of*** Revenue[~~ Cabinet~~], and that meet the requirements of KRS 131.652.

(2) For purposes of this section, a taxpayer may be included on a list if:

(a) The taxes or fees owed remain unpaid at least forty-five (45) days after the dates they became due and payable; and

(b) A tax lien or judgment lien has been filed of public record against the taxpayer before notice is given under KRS 131.654.

(3) In the case of listed taxpayers that are business entities, the ***Department of*** Revenue[~~ Cabinet~~] may also list the names of responsible persons assessed pursuant to KRS 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected from publication by subsection (2) of this section, and for whom the requirements of KRS 131.652 are satisfied with regard to the personal assessment.

(4) Before any list is published under this section, the ***department***[~~cabinet~~] shall document that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

Section 161. KRS 131.652 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] may publish a list of all of the taxpayers described in KRS 131.650.

(2) For the purposes of this section, a tax or fee is not delinquent if:

(a) The procedures enumerated in KRS 131.110 have not been waived or exhausted at the time when notice would be given under KRS 131.654; or

(b) The liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(3) Unpaid liabilities are not subject to publication if:

(a) The ***department***[~~cabinet~~] is in the process of reviewing or adjusting the liability;

(b) The taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(c) The ***department***[~~cabinet~~] has been notified that the taxpayer is deceased; or

(d) The time period for enforced collection of the taxes or fees has expired.

Section 162. KRS 131.652 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] may publish a list of all of the taxpayers described in KRS 131.650.

(2) For the purposes of this section, a tax or fee is not delinquent if:

(a) The procedures enumerated in KRS 131.110 have not been waived or exhausted at the time when notice would be given under KRS 131.654; or

(b) The liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(3) Unpaid liabilities are not subject to publication if:

(a) The ***department***[~~cabinet~~] is in the process of reviewing or adjusting the liability;

(b) The taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(c) The ***department***[~~cabinet~~] has been notified that the taxpayer is deceased; or

(d) The time period for enforced collection of the taxes or fees has expired.

Section 163. KRS 131.658 is amended to read as follows:

The ***department***[~~cabinet~~] shall remove the name of a taxpayer from the list of delinquent taxpayers after the ***department***[~~cabinet~~] receives written notice of and verifies any of the following facts about the liability in question:

(1) The taxpayer has contacted the ***department***[~~cabinet~~] and arranged resolution of the liability;

(2) An active bankruptcy proceeding has been initiated for the liability; or

(3) A bankruptcy proceeding concerning the liability has resulted in discharge of the liability.

Section 164. KRS 131.660 is amended to read as follows:

If the ***department***[~~cabinet~~] publishes a name under KRS 131.650 in error, the taxpayer whose name was erroneously published has all the rights enumerated in KRS 131.081 for an aggrieved taxpayer.

Section 165. KRS 131.990 is amended to read as follows:

(1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(2) (a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(d) Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years, or both.

(e) Any present ***commissioner***[~~secretary~~] or employee of the ***Department of*** Revenue[~~ Cabinet~~], member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.

(3) Any person who willfully fails to comply with the rules and regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~] for the administration of delinquent tax collections shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(4) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the

department[~~cabinet~~] that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.

Section 166. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means:

(a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;

(b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or

(c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government.

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

Section 167. KRS 132.015 is amended to read as follows:

The property valuation administrator shall maintain lists of all real property additions and real property deletions to the property tax rolls for the county, consolidated local government, or urban-county, and each city, school district, and special district in the county, consolidated local government, or urban-county, and shall certify such lists to the ***Department of*** Revenue~~[Cabinet]~~, the city clerk of each city in the county which elects to use the annual county assessment as provided for in KRS 132.285, the treasurer or chief officer of each special district in the county, and the chief administrative officer of the urban-county and the consolidated local government at the time he files his recapitulation of property assessed on the tax roll with the ***Department of*** Revenue~~[Cabinet]~~.

Section 168. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars

($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board, fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from any affiliated company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding the assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the ***department***[~~cabinet~~] shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the ***department***[~~cabinet~~]

shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the ***department***[~~cabinet~~], or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the ***department***[~~cabinet~~], make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the ***department***[~~cabinet~~] as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding the revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the ***department***[~~cabinet~~] after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 169. KRS 132.030 is amended to read as follows:

(1) Every person having a deposit in any financial institution, as defined in KRS 136.500, on January 1 of any year shall pay an annual tax to the state equal to one-thousandth of one percent (0.001%) upon the amount of the deposit, and no deduction shall be made for any indebtedness. The deposit tax shall be paid to the ***department***[~~cabinet~~] by the financial institution with which the deposit is made, as the agent of the depositor, on or before March 1 following the date of the report provided for in KRS 132.040.

(2) No other tax shall be assessed by the state or any county, city, or other taxing district on the deposits or against the depositor on account of the deposits, except as provided in KRS 136.575.

Section 170. KRS 132.040 is amended to read as follows:

Each financial institution, as defined in KRS 136.500, shall file with the ***department***[~~cabinet~~] on or before March 1 of each year, a report setting forth the total amount of its deposits as of the preceding January 1 that are taxable in the name of the depositor under the laws of this state, and shall, on or before March 1 of each year, pay to the ***department***[~~cabinet~~] one-thousandth of one percent (.001%) of the amount of the deposits, and may charge to and deduct from the deposit of each depositor the amount of the tax paid on his behalf. Financial institutions shall have liens on the funds belonging to the respective depositors on which the tax has been paid. Any claim for taxes against the depositor by the financial institution paying the taxes shall be asserted within six (6) months after the payment of the taxes to the ***department***[~~cabinet~~], and no claims or liens shall be asserted after that time.

Section 171. KRS 132.047 is amended to read as follows:

(1) Every person having on September 1 of any year a savings account, in Kentucky in any credit union organized under the laws of this state or doing business in this state shall pay an annual tax to the state equal to one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of the savings account, and no deduction therefrom shall be made for any indebtedness. The tax shall be paid to the ***Department of*** Revenue[~~ Cabinet~~] by the credit union with which the savings account is made, as agent of the member on or before November 1 of each year. The credit union may charge to and deduct from the savings account of each member the amount of tax so paid on his behalf. A lien is hereby given to the credit union on the funds belonging to the respective member on which the tax has been so paid. Any claim for taxes against the member by the credit union paying the taxes shall be asserted within six (6) months after payment of the taxes to the ***department***[~~cabinet~~], and all claims or liens therefor shall be thereafter barred.

(2) Each credit union shall file with the ***Department of*** Revenue[~~ Cabinet~~] on or before September 21 each year a report setting forth the total amount of the savings account of members as of the preceding September 1 that would be taxable in the name of the member under the laws of this state.

(3) Any credit union that fails to make the returns or pay the taxes on behalf of its members within the time limits prescribed by KRS 132.043 and 132.047 shall be subject to the penalties and interest provided in KRS 131.180.

(4) No other tax shall be assessed by the state or any county, city, or other taxing district on such savings account or against the members on account of such savings account.

Section 172. KRS 132.060 is amended to read as follows:

(1) Every broker maintaining an office or place of business in this state for the conduct of the business of buying or selling bonds or other securities, excluding stocks and mutual funds, for customers in margin transactions shall report to the ***Department of*** Revenue[~~ Cabinet~~] as of January 1 of each year, the aggregate amount, with an accurate description and the market value, of all such securities then held or carried by such broker for each office or place of business in the state for resident customers, which report shall be filed with the ***department***[~~cabinet~~] on or before March 1 of each year.

(2) If the broker has doubt as to whether or not a customer is a resident of this state, he may, on or before making the required report, call upon the customer to submit an affidavit upon a form to be prescribed by the ***department***[~~cabinet~~], stating the facts relied upon to establish his nonresidence. The broker may then report to the ***department***[~~cabinet~~] the name and post office address of such customer and the information as to securities held or carried for him, and file therewith the customer's affidavit. The broker shall then be relieved from making any further report and from collecting or paying any taxes for the customer.

(3) If the customer fails or refuses to furnish the affidavit required by the broker, the broker shall report and pay the tax for the customer, who shall then have no claim against the broker.because of the payment of the tax charged to the customer's account.

Section 173. KRS 132.070 is amended to read as follows:

Upon the filing of the report required by KRS 132.060, the ***department***[~~cabinet~~] shall assess the securities therein reported for taxation at their fair cash value, insofar as subject to taxation in this state, and shall fix the amount of tax due thereon at the rate prescribed by KRS 132.020, and render to the broker a tax bill covering the full amount of taxes due to the state under the securities so reported.

Section 174. KRS 132.080 is amended to read as follows:

The taxes fixed under KRS 132.070 shall be paid to the ***Department of*** Revenue[~~ Cabinet~~] by the broker within thirty (30) days after the rendition of the tax bill, subject to the same rate of discount provided in KRS 134.020. The broker may charge to and collect from each customer his portion of the tax levied upon the securities held or carried for him. If the broker fails to pay the taxes when due, he shall be liable for interest thereon at the tax interest rate as defined in KRS 131.010(6), and an additional penalty of ten percent (10%) upon the amount of the taxes with interest.

Section 175. KRS 132.130 is amended to read as follows:

(1) Effective January 1, 1967, every owner, proprietor, or custodian of a bonded warehouse or of premises under the control and supervision of the United States Internal Revenue Service, in which distilled spirits are stored shall between January 1 and February 1 of each year file with the ***Department of*** Revenue[~~ Cabinet~~] a report sworn to by him showing the quantity and kind of distilled spirits in the bonded warehouse or premises as of January 1 of that year; the quantity and kind of spirits on which the federal tax has been paid or is due; what distilled spirits have been removed from the bonded warehouse or premises for transfer in bond out of this state during the preceding twelve (12) months; the county, city, and taxing district in which such distilled spirits were certified for taxation; the fair cash value of the distilled spirits estimated at a price it would bring at a fair voluntary sale; and such other facts pertaining to the distilled spirits as the ***department***[~~cabinet~~] may require.

(2) On January 1, May 1, and September 1, after the federal tax has been paid or becomes due, or after any of the distilled spirits are removed from the bonded warehouse or premises for transfer in bond out of this state, every owner, proprietor, or custodian of a bonded warehouse or premises in which distilled spirits are stored upon which taxes have accrued on assessments prior to January 1, 1967, shall file with the ***Department of*** Revenue[~~ Cabinet~~] and the county clerk, in which county the distilled spirits were at the time of the assessment, a statement, sworn to by him, showing the quantity of the distilled spirits on which the federal tax has been paid or is due; what distilled spirits have been removed from the bonded warehouse or premises or transferred in bond out of this state during the preceding four (4) months; the years in which such distilled spirits were assessed for taxation; and the county, city, or taxing district in which the distilled spirits were stored at the time of the assessment. At the same time, all taxes and interest on such distilled spirits due the state, county, or other taxing district shall be paid to the officers entitled to receive them. The report required by this section shall be made whether or not any distilled spirits are stored in the bonded warehouse or premises at the time the report is due.

Section 176. KRS 132.140 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall fix the value of the distilled spirits for the purpose of taxation, assess the same at its fair cash value, estimated at the price it would bring at a fair voluntary sale, and keep a record of its valuations and assessments. The ***department***[~~cabinet~~] shall immediately notify the owner or proprietor of the bonded warehouse or

premises of the amount fixed.

(2) If any owner, proprietor, or custodian of a bonded warehouse or premises fails to make the report required by KRS 132.130, the ***department***[~~cabinet~~] shall ascertain the necessary facts required to be reported. For that purpose the ***department***[~~cabinet~~] shall have access to the records of the owner, proprietor, or custodian; and the assessment shall be made and taxes collected thereon, with interest and penalties, as though regularly reported.

(3) The assessment made under (1) of this section shall be reviewed according to KRS 131.110.

Section 177. KRS 132.150 is amended to read as follows:

Immediately after the valuation of the distilled spirits has been finally fixed, the ***department***[~~cabinet~~] shall certify to the county clerks of the respective counties the amount liable for county, city, or district taxation, and the date when the bonded period will expire on the spirits. The report shall be filed by the county clerk in his office, and certified by him to the proper collecting officer of the county, city, or taxing district for collection. The spirits, in addition to the tax for state purposes, shall be taxed for county, school, and city purposes at the prevailing rates of taxation on tangible personal property in the respective counties, school districts, and cities in which the spirits are stored, but the combined rate of taxation for city and school purposes in cities of the first class shall not exceed one dollar and twenty-five cents ($1.25) on each one hundred dollars ($100) of assessed value of the spirits.

Section 178. KRS 132.180 is amended to read as follows:

(1) Any person having custody of distilled spirits in a bonded warehouse or premises on the day as of which the assessment is made shall be liable for all taxes due thereon, together with all interest and penalties that may accrue. Any owner, proprietor, or custodian of such distilled spirits who pays the taxes, interest and penalties on the distilled spirits shall have a lien thereon for the amount paid, with legal interest from day of payment.

(2) Taxes on distilled spirits which are subject to the provisions of KRS 132.160(1)(a) shall become due and payable in the manner provided by KRS 134.020 except that taxes due the state shall be paid directly to the ***Department of*** Revenue[~~ Cabinet~~].

Section 179. KRS 132.216 is amended to read as follows:

(1) Every life insurance company organized under the laws of this state, or doing business in this state, shall by February 15 of each year make a true and correct report to the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~], verified by its president, secretary, treasurer, or other proper officer, giving the names and addresses of residents of this state entitled to proceeds of life insurance policies left on deposit with the insurance company and subject to the right of withdrawal as of January 1 previous thereto, with the amount left on deposit in each individual's name, and other information as may be required by the ***Department of*** Revenue[~~ Cabinet~~] by regulation.

(2) Every life insurance company organized under the laws of this state, or doing business in this state, shall by February 15 of each year make a true and correct report to the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~], verified by its president, secretary, treasurer, or other proper officer, giving the name and address of any resident of this state who is the beneficiary of a policy or policies with the insurance company, subject to taxation under KRS 132.215, with the amount paid to the Kentucky resident during the twelve (12) months immediately preceding January 1, the age of the individual receiving these payments as of January 1, and such other information as the ***Department of*** Revenue[~~ Cabinet~~] may require by regulation.

Section 180. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any financial institution, as defined in KRS 136.500, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed, and valued as of January 1 of each year. Money in hand shall be listed, assessed, and valued as of January 1 of each year. Notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in the property, unless otherwise provided by law, shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1 of each year. It shall be the duty of all persons owning or having any interest in any real property taxable in this state to list or have listed the property with the property valuation administrator of the county where it is located between January 1 and March 1 in each year, except as otherwise provided by law. It shall be the duty of all persons owning or having any interest in any intangible personal property or tangible personal property taxable in this state to list or have listed the property with the property valuation administrator of the county of taxable situs or with the ***department***[~~cabinet~~] between January 1 and May 15 in each year, except as otherwise prescribed by law. The filing date for an individual's intangible property tax return may be extended to the extended federal income filing date approved by the Internal Revenue Service for that individual. If an individual extends the filing date for the intangible return, no discount shall be allowed upon the payment of the intangible tax. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer may list his property in person before the property valuation administrator or his deputy, or may file a property tax return by first class mail. Any real property correctly and completely described in the assessment record for the previous year, or purchased during the preceding year and for which a value was stated in the deed according to the provisions of KRS 382.135, may be considered by the owner to be listed for the current year if no changes that could

potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the ***department***[~~cabinet~~], any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property which has been underassessed as a result of the owner intentionally failing to provide information, or intentionally providing erroneous information, shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.

(3) If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list. The property valuation administrator, his employee, or employees of the ***department***[~~cabinet~~] may physically inspect and revalue land and buildings in the absence of the property owner or resident. The exterior dimensions of buildings may be measured and building photographs may be taken; however, with the exception of buildings under construction or not yet occupied, an interior inspection of residential and farm buildings, and of the nonpublic portions of commercial buildings shall not be conducted in the absence or without the permission of the owner or resident.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of the person without designating them by name.

(5) Real property tax roll entries for which tax bills have not been collected at the expiration of the one (1) year tolling period provided for in KRS 134.470, and for which the property valuation administrator cannot physically locate and identify the real property, shall be deleted from the tax roll and the assessment shall be exonerated. The property valuation administrator shall keep a record of these exonerations, which shall be open under the provisions of KRS 61.870 to 61.884. If, at any time, one of these entries is determined to represent a valid parcel of property it shall be assessed as omitted property under the provisions of KRS 132.290. Notwithstanding other provisions of the Kentucky Revised Statutes to the contrary, any loss of ad valorem tax revenue suffered by a taxing district due to the exoneration of these uncollectable tax bills may be recovered through an adjustment in the tax rate for the following year.

(6) All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of the tax-exempt property, but the property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the ***department***[~~cabinet~~] within thirty (30) days of the close of the listing period. This inventory shall be in the form prescribed by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the listing period.

(7) Each property valuation administrator, under the direction of the ***department***[~~cabinet~~], shall review annually all real property listed with him under subsection (6) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

Section 181. KRS 132.240 is amended to read as follows:

Individuals or corporations listing property for taxation with the property valuation administrator or the county board of supervisors shall reveal the face value of all intangibles listed, except cash or bank deposits, on the form prescribed by the ***Department of*** Revenue[~~Cabinet~~] for listing intangible property. A reduction of fifty cents ($0.50) shall be made from the property valuation administrator's compensation for each list he accepts upon which there is an omission to reveal the face value of any intangible property listed, except cash or bank deposits.

Section 182. KRS 132.260 is amended to read as follows:

Every person providing rental space for the parking of mobile homes and recreational vehicles shall by February 1 of each year report the name of the owner and type and size of all mobile homes and recreational vehicles not registered in this state under KRS 186.655 on his premises on the prior January 1 to the property valuation administrator of the county in which the property is located. The report shall be made in accordance with forms prescribed by the ***Department of*** Revenue[~~Cabinet~~] and shall be signed and verified by the chief officer or person in charge of the business. The property valuation administrator may make a personal inspection and investigation of the premises on which mobile homes and recreational vehicles are located, for the purpose of identifying and assessing such property. No person in charge of such premises shall refuse to permit the inspection and investigation.

Section 183. KRS 132.285 is amended to read as follows:

(1) Except as provided in subsection (3) of this section, any city may by ordinance elect to use the annual county assessment for property situated within such city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city. Any city making such election shall notify the ***Department of*** Revenue[~~Cabinet~~] and property valuation administrator prior to the next succeeding assessment to be used for city levies. In such event the assessment finally determined for county tax purposes shall serve as a basis of all city levies for the fiscal year commencing on or after the county assessment date. Each city which elects to use the county assessment shall annually appropriate and pay each fiscal year to the office of the property valuation administrator for deputy and other authorized personnel allowance, supplies, maps and

equipment, and other authorized expenses of the office one-half of one cent ($0.005) for each one hundred dollars ($100) of assessment; provided, that sums paid shall not be less than two hundred fifty dollars ($250), nor more than forty thousand dollars ($40,000) in a city having an assessment subject to city tax of less than two billion dollars ($2,000,000,000) or fifty thousand dollars ($50,000) in a city having an assessment subject to city tax of more than two billion dollars ($2,000,000,000). This allowance shall be based on the assessment as of the previous January 1. Each property valuation administrator shall file a claim with the city and the city shall order payment in an amount not to exceed the appropriation authorized by this section. The property valuation administrator shall be required to account for all moneys paid to his office by the city and any funds unexpended by the close of each fiscal year shall carry over to the next fiscal year. Notwithstanding any statutory provisions to the contrary, the assessment dates for such city shall conform to the corresponding dates for the county, and such city may by ordinance establish additional financial and tax procedures that will enable it effectively to adopt the county assessment. The legislative body of any city adopting the county assessment may fix the time for levying the city tax rate, fiscal year, due and delinquency dates for taxes and any other dates that will enable it effectively to adopt the county assessment, notwithstanding any statutory provisions to the contrary. Any such city may, by ordinance, abolish any office connected with city assessment and equalization; except that in the case of a city assessor who is elected by the qualified voters of the city, the office may not be abolished before the end of the term of such assessor. Any city which elects to use the county assessment shall have access to the assessment records as soon as completed and may obtain a copy of that portion of the records which represents the assessment of property within such city by additional payment of the cost thereof. Once any city elects to use the county assessment, such action cannot be revoked without notice to the ***Department of*** Revenue[~~ Cabinet~~] and the property valuation administrator six (6) months prior to the next date as of which property is assessed for state and county taxes.

(2) In the event any omitted property is assessed by the property valuation administrator as provided by KRS 132.310 such assessment shall be considered as part of the assessment adopted by the city according to subsection (1) of this section.

(3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities shall use the assessment required to be made pursuant to KRS 132.487(5).

(4) Notwithstanding the provisions of subsection (1) of this section, each city which elects to use the county assessment for ad valorem taxes levied for 1996 or subsequent years, and which used the county assessment for ad valorem taxes levied for 1995, shall appropriate and pay to the office of the property valuation administrator for the purposes set out in subsection (1) of this section an amount equal to the amount paid to the office of the property valuation administrator in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.

Section 184. KRS 132.310 is amended to read as follows:

(1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the ***Department of*** Revenue[~~ Cabinet~~], may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The ***Department of*** Revenue[~~ Cabinet~~] shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.

(2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). If the property valuation administrator fails to assess any omitted real property, the ***Department of*** Revenue[~~ Cabinet~~] may initiate assessment and collection procedures under the same provisions it uses for omitted personal property.

(3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one (1) member of the board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky Board of Tax Appeals as provided by KRS 131.340(2).

(4) Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290(3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4).

Section 185. KRS 132.320 is amended to read as follows:

(1) Any person who has failed to list for taxation his intangible personal property or tangible personal property, in whole or in part, because he was not called upon by the property valuation administrator or for any other reason, may at any time list the property with the ***department***[~~cabinet~~] by reporting to the ***department***[~~cabinet~~] the full details and a correct description of the omitted property and its value. The ***department***[~~cabinet~~] may determine and fix the fair cash value, estimated at the price it would bring at a fair voluntary sale, of the property so reported and listed for taxation.

(2) Any person dissatisfied with or aggrieved by the finding or ruling of the ***department***[~~cabinet~~] may appeal the finding or ruling in the manner provided in KRS 131.110.

(3) The ***department***[~~cabinet~~] may promulgate administrative regulations, and develop forms for the listing and assessment of

the property assessed or to be assessed for taxation. The tax assessed shall be paid to and collected by the ***department***[~~cabinet~~]. Taxes collected by the ***department***[~~cabinet~~] on behalf of the county, school, and other local taxing districts shall be distributed to each district at least quarterly. From each distribution, the ***department***[~~cabinet~~] shall deduct a fee which represents an allocation of ***department***[~~cabinet~~] operating and overhead expenses incurred in assessing and collecting the omitted tax. The fee shall be determined by the ***department***[~~cabinet~~] and shall apply to all omitted taxes collected after December 31, 1997.

(4) All property assessed pursuant to this section shall be liable for the payment of the taxes, interest, and penalties provided by law for failure to list the property with the property valuation administrator or other assessment board, commission, or authority within the time and in the manner prescribed by law, except that if the taxpayer voluntarily lists property under this section the twenty percent (20%) penalty provided to be paid to the ***department***[~~cabinet~~] shall not apply, unless the taxpayer on an appeal from the action of the ***department***[~~cabinet~~] attempts to reduce the assessment and is unsuccessful.

(5) If after demand by the ***department***[~~cabinet~~], any taxpayer refuses to voluntarily list any intangible or tangible personal property omitted from assessment, the ***department***[~~cabinet~~] shall make an estimate of the fair cash value of the omitted intangible or tangible personal property from the information in its possession and assess the property for taxation and require payment of the taxes, penalties, and interest due to the state and local taxing districts from the person assessed. Notice of the assessment shall be mailed to the taxpayer or the taxpayer's agent. The finality and review of any assessment made pursuant to this section shall be governed by the provisions of KRS 131.110.

Section 186. KRS 132.330 is amended to read as follows:

The field agents, accountants and attorneys of the ***Department of*** Revenue[~~ Cabinet~~] shall cause to be listed for taxation all property omitted by the property valuation administrators, county board of assessment appeals, ***department***[~~cabinet~~] or any other assessing authority, for any year omitted. The agent, accountant or attorney proposing to have the property assessed shall file in the office of the county clerk of the county in which the property may be liable to assessment a statement containing a description and value of the property or corporate franchise proposed to be assessed, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, if known, and the year the property was unassessed. The county clerk shall thereupon issue a summons against the owner, or person in possession of the property if the owner is unknown, to show cause within ten (10) days after the service of the summons, why the property or corporate franchise shall not be assessed at the value named in the statement filed. No decision shall be rendered against the alleged owner unless the statement filed contains a description of the property sought to be assessed that will enable the county judge/executive to identify it. The summons shall be executed by the sheriff by delivering a copy thereof to the owner, or if he is not in the county to his agent, attorney or person in possession of the property. If the property is real property, and the owner is known but is absent from the state and has no attorney or agent in this state and no one is in possession of the property, the summons shall be served by posting it in a conspicuous place upon the property; if the property consists of tangible personal property the summons shall be placed in a conspicuous place where the property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown and no one (1) has possession of the property, an action for assessment shall be instituted by filing the petition above mentioned and procuring constructive service against the owner under the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of the above cases an attachment of the property omitted from assessment may be procured from the District Court against the owner, at the time of the institution of the action or thereafter, and without the execution of a bond by the Commonwealth or its relator, by the representative of the ***Department of*** Revenue[~~ Cabinet~~] making an affidavit that the property described in the petition is subject to state, county, school or other taxing district tax, and is unassessed for any taxable year.

Section 187. KRS 132.340 is amended to read as follows:

(1) Within ten (10) days after the summons has been served, or within thirty (30) days after the warning order against the defendant whose name and place of residence are unknown has been made, if it appears to the county judge/executive that the property is liable for taxation and has not been assessed, the county judge/executive shall enter an order fixing the value at the fair cash value estimated as required by law. The county judge/executive shall certify the assessment of the property and its value, together with such other facts as may be required by law or directed by the county judge/executive to appear in the order, to the ***Department of*** Revenue[~~ Cabinet~~] and to the sheriff of the county, together with the amount of penalty and cost of assessment, in order that the taxes due the state, county, school or any other taxing district may be collected, with the penalty and costs. If the property is not liable for taxes, the county judge/executive shall make an order to that effect. Either party may appeal from the decision of the county judge/executive to the Circuit Court, and then to the Court of Appeals as in other civil cases, except that no appeal bond shall be required where the appeal is by the ***commissioner***[~~secretary~~] of revenue acting as the relator.

(2) If the owner of the property fails to pay the tax assessed, interest, penalties and costs, the lien under the attachment may be enforced and a sufficiency of the property sold to pay the obligation to the state, county, school or other taxing district. All persons owning property that is assessed as herein provided shall, in addition to the taxes and interest from the time the taxes should have been paid, pay the costs of the proceedings and a penalty of twenty percent (20%) on the amount of the taxes due, except where the property was duly listed and the taxes paid thereon within the time prescribed by law, and except where some different penalty is expressly provided by law.

(3) The taxes, costs and penalties shall be collected and accounted for as other taxes and penalties are required to be collected, and by the same officers. The county clerk shall enter all such assessments in a book to be kept for that purpose, showing

the date of the assessment, the name of the person against whom the assessment is made, the location and description of the property assessed, and the value thereof. The officer collecting the taxes shall, when they are paid, notify the clerk of the payment, and the payment shall be noted by the clerk opposite the entry of the assessment.

Section 188. KRS 132.350 is amended to read as follows:

The county clerk shall, upon the filing of a statement by an agent, accountant or attorney of the ***Department of*** Revenue[~~ Cabinet~~] for the assessment of omitted property, enter the name of the person signing the statement as attorney for the ***department***[~~cabinet~~], and enter the name of the county attorney as attorney for the state, county, school and other taxing districts for which the ***commissioner***[~~secretary~~] of revenue is authorized to act as relator in such proceeding. The county attorney shall appear and prosecute or assist in the prosecuting of the proceeding in all the courts to which it may be taken for trial. If there is a judgment assessing the property for taxation, the judgment in each case shall recite whether or not the county attorney was present and assisted in the trial of the proceeding. When he is present and assists in the proceeding he shall be allowed as compensation for his services ten percent (10%) of the amount of state and county taxes assessed and collected pursuant to the judgment. The state and county shall be liable respectively for the payment only of the percentage allowance of compensation to the county attorney on the amount that each collects, and this shall be paid to the county attorney within thirty (30) days after the collection of the taxes, and charged against the fund to which the tax was credited.

Section 189. KRS 132.360 is amended to read as follows:

(1) Any assessment of accounts receivable, notes, or bonds or other intangible or tangible personal property that were listed with the property valuation administrator or with the ***Department of*** Revenue[~~ Cabinet~~] as provided by KRS 132.220 may be reopened by the ***Department of*** Revenue[~~ Cabinet~~] within five (5) years after the due date of the return, unless the assessed value thereof is the face value in the case of accounts receivable and notes or the quoted value in the case of bonds, or has been established by a court of competent jurisdiction. If upon reopening the assessment the ***department***[~~cabinet~~] finds that the assessment was less than the fair cash value and should be increased, it shall give notice thereof to the taxpayer, who may within forty-five (45) days thereafter protest to the ***department***[~~cabinet~~] and offer evidence to show that no increase should be made. After the ***department***[~~cabinet~~] has disposed of the protest, the taxpayer may appeal from any such additional assessment as provided by KRS 131.110 and 131.340.

(2) Upon such assessment becoming final the ***department***[~~cabinet~~] shall certify the amount due to the taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

Section 190. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor. Property valuation administrators shall be state officials and all deputies and assistants of their offices shall be unclassified state employees.

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by Section 100 of the Constitution and by KRS 132.380 and shall be eligible for reelection.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full-time employees shall be eligible for participation in the provisions of KRS 18A.205, 18A.230 to 18A.355, and 61.510 to 61.705.

(4) A property valuation administrator may be removed from office by the Circuit Court of his county, upon petition of any taxpayer, or by the ***commissioner***[~~secretary~~] of revenue for any of the following grounds: willful disobedience of any just or legal order of the ***department***[~~cabinet~~], or for misfeasance or malfeasance in office or willful neglect in the discharge of his official duties, including but not limited to intentional underassessment or overassessment of properties and chronic underassessment of properties. For purposes of this section and KRS 134.385, "chronic underassessment" shall mean a widespread pattern and practice of assessing properties at levels substantially below fair market value which persists for a period of two (2) or more years as disclosed by randomly selected sample appraisals conducted under the provisions of KRS 133.250, special audits conducted pursuant to KRS 134.385, or other means.

(5) If the ***commissioner***[~~secretary~~] determines that a property valuation administrator should be removed from office, the property valuation administrator shall be notified in writing, and the notice of intent to remove shall state the specific reasons for removal. The notice shall also advise the property valuation administrator of his right to a preremoval conference and an administrative hearing.

(6) A property valuation administrator may request a preremoval conference to appear with or without counsel before the ***commissioner***[~~secretary~~] or his designee to answer the charges against him. The preremoval conference shall be requested in writing within six (6) working days of the date on which the notice of intent to remove is received, and a preremoval conference shall be scheduled within seven (7) working days of the date on which the request is received. The ***commissioner***[~~secretary~~] or his designee shall render a decision within five (5) working days of the conclusion of the preremoval conference. Failure of a property valuation administrator to request a preremoval hearing shall not waive his right to contest his removal through an administrative hearing.

(7) If an action to remove a property valuation administrator is initiated by the ***commissioner***[~~secretary~~] of revenue, the

property valuation administrator shall have the right to appeal and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. Appeal of the final order of the ***commissioner***[~~secretary~~] of revenue may be filed in a Circuit Court of an adjacent judicial circuit in accordance with KRS Chapter 13B, notwithstanding the provisions of KRS Chapter 18A.

(8) If a property valuation administrator is removed from office as provided in subsections (4) to (7) of this section, he shall be ineligible to serve in the office at any future date and shall forfeit any and all certification from the ***Department of*** Revenue[~~ Cabinet~~] pertaining to the office.

(9) Notwithstanding the provisions of KRS 18A.110(5)(c), the ***department***[~~cabinet~~] shall promulgate administrative regulations allowing property valuation administrators and their deputies to receive lump-sum payments for accrued annual leave and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

Section 191. KRS 132.375 is amended to read as follows:

Whenever a vacancy occurs in the property valuation administrator's office, the ***commissioner***[~~secretary~~] of revenue shall designate a qualified ***department***[~~cabinet~~] employee to carry on the duties of the office until the vacancy is filled by appointment or by election. The ***department***[~~cabinet~~] employee so designated shall be compensated from ***Department of*** Revenue[~~ Cabinet~~] funds in the same manner and at the same rate as compensated prior to his receiving the designation, plus necessary expenses, including travel. The individual shall have all the powers and be subject to all the administrative regulations applying to property valuation administrators.

Section 192. KRS 132.380 is amended to read as follows:

(1) Before any person's name shall appear before the voters on election day as a candidate for the office of property valuation administrator in any primary or general election, except as a candidate to succeed himself in office, or before he may be appointed property valuation administrator, except as an interim appointee as provided by KRS 132.375, he shall hold a certificate issued by the ***Department of*** Revenue[~~ Cabinet~~], showing that he has been examined by it and that he is qualified for the office. All certificates issued shall expire one (1) year from the date of issuance, except for the certificates issued to successful candidates of the 1997 exam. Those certificates shall remain valid until after the November, 1998 election. The examinations shall be written and formulated so as to test fairly the ability and fitness of the applicant to serve as property valuation administrator. The ***Department of*** Revenue[~~ Cabinet~~] shall hold the examinations in at least one (1) place in each Supreme Court district during the month of November of each year immediately preceding each year in which property valuation administrators are to be elected. The ***Department of*** Revenue[~~ Cabinet~~] shall advise each county attorney of the time and place of the examination, and the county attorney shall post a notice thereof in a conspicuous place in the courthouse two (2) weeks before the examination is given. Any person desiring to take an examination shall appear at the time and place designated.

(2) If, after the giving of the examination, as provided in subsection (1), there is only one (1) person qualified to be a candidate in the county, the ***Department of*** Revenue[~~ Cabinet~~] shall hold a second examination prior to the filing date in each Supreme Court district where necessary. Applicants from only those counties having not more than one (1) person qualified shall be eligible to take the examination. Notice of the second examination shall be posted in the manner provided in subsection (1).

(3) Whenever there is a vacancy in the office of property valuation administrator to be filled by appointment or by election, and there is not more than one (1) person holding a valid certificate and eligible for appointment or election, the ***Department of*** Revenue[~~ Cabinet~~] may hold a special examination for applicants seeking a certificate for the office. If, after the giving of a special examination, only one (1) person is qualified, the county judge/executive may request a second examination. Special examinations shall be held in the same manner as regular examinations.

(4) Examinations shall be given and graded in accordance with rules of the ***department***[~~cabinet~~] published at the time of the examination. Within ten (10) days after the examination, a certificate of fitness and qualification to fill the office of property valuation administrator shall be issued by the ***Department of*** Revenue[~~ Cabinet~~] to each person passing the examination.

(5) Examination records shall be preserved by the ***department***[~~cabinet~~] for twelve (12) months after the examination, and the record of any person who took the examination may be seen by him at the office of the ***Department of*** Revenue[~~ Cabinet~~] in Frankfort, Kentucky.

Section 193. KRS 132.385 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall develop and administer a program for the purpose of providing education and training in the technical, legal, and administrative aspects of property tax administration for property valuation administrators, deputy property valuation administrators, and ***department***[~~cabinet~~] employees. Courses may be created and taught by ***department***[~~cabinet~~] personnel or the ***department***[~~cabinet~~] may adopt specific courses offered by appropriate professional organizations.

(2) The ***department***[~~cabinet~~] shall develop and administer, in cooperation with the property valuation administrators, a certification program for property valuation administrators, deputy property valuation administrators, and ***department***[~~cabinet~~] employees. A professional designation, "certified Kentucky assessor" (CKA), shall be awarded to

those individuals successfully meeting the standards established by this program. Minimum requirements shall include one hundred twenty (120) hours of classroom instruction, passage of subject matter examinations, and three (3) years of experience in Kentucky property tax administration. An advanced designation, "senior Kentucky assessor" (SKA), shall be awarded to those individuals successfully completing an additional ninety (90) hours of classroom instruction, passage of subject matter examinations, and an additional two (2) years of experience in Kentucky property tax administration. Correspondence course credit administered by the ***department***[~~cabinet~~] may be substituted for no more than thirty (30) hours of the one hundred twenty (120) hours required for the "certified Kentucky assessor" (CKA) designation, and for no more than fifteen (15) hours of the additional ninety (90) hours required for the "senior Kentucky assessor" (SKA) designation.

Section 194. KRS 132.400 is amended to read as follows:

Before entering upon the duties of office, the property valuation administrator shall execute a bond conditioned upon the faithful performance of the duties of the office with a surety to be approved by the ***Department of*** Revenue[~~ Cabinet~~]. In counties containing a city of the first class or consolidated local government, the bond shall be in the sum of one hundred thousand dollars ($100,000); in counties containing a city of the second class, fifty thousand dollars ($50,000); in all other counties, twenty thousand dollars ($20,000).

Section 195. KRS 132.420 is amended to read as follows:

The property valuation administrator shall, subject to the direction, instruction, and supervision of the ***Department of*** Revenue[~~ Cabinet~~], make the assessment of all property in his county except as otherwise provided, prepare property assessment records, and have other powers and duties relating to assessment as may be prescribed by law or by the ***department***[~~cabinet~~].

Section 196. KRS 132.450 is amended to read as follows:

(1) Each property valuation administrator shall assess at its fair cash value all property which it is his duty to assess except as provided in paragraph (c) of subsection (2) of this section. In the case of securities which are regularly bought and sold through stock exchanges, the price at which such property closed on the last regular business day preceding the assessment day shall be prima facie evidence of the fair cash value of such property. The property of one (1) person shall not be assessed willfully or intentionally at a lower or higher relative value than the same class of property of another, and any grossly discriminatory valuation shall be construed as an intentional discrimination. The property valuation administrator shall make every effort, through visits with the taxpayer, personal inspection of the property, from records, from his own knowledge, from information in property schedules, and from such other evidence as he may be able to obtain, to locate, identify, and assess property.

(2) (a) In determining the total area of land devoted to agricultural or horticultural use, there shall be included the area of all land under farm buildings, greenhouses and like structures, lakes, ponds, streams, irrigation ditches and similar facilities, and garden plots devoted to growth of products for on-farm personal consumption but there shall be excluded, land used in connection with dwelling houses including, but not limited to, lawns, drives, flower gardens, swimming pools, or other areas devoted to family recreation. Where contiguous land in agricultural or horticultural use in one (1) ownership is located in more than one (1) county or taxing district, compliance with the minimum requirements shall be determined on the basis of the total area of such land and not the area of land which is located in the particular county or taxing district.

(b) Land devoted to agricultural or horticultural use, where the owner or owners have petitioned for, and been granted, a zoning classification other than for agricultural or horticultural purposes qualifies for the agricultural or horticultural assessment until such time as the land changes from agricultural or horticultural use to the use granted by the zoning classification.

(c) When the use of a part of a tract of land which is assessed as agricultural or horticultural land is changed either by conveyance or other action of the owner, the right of the remaining land to be retained in the agricultural or horticultural assessment shall not be impaired provided it meets the minimum requirements, except the minimum ten (10) contiguous acre requirement shall not be applicable if any portion of the agricultural or horticultural land has been acquired for a public purpose as long as the remaining land continues to meet the other requirements of this section.

(d) When in the opinion of the property valuation administrator any land has a value in excess of that for agricultural or horticultural use the property valuation administrator shall enter into the tax records the value of the property according to its fair cash value. When the property valuation administrator determines that the land meets the requirements for valuation as agricultural or horticultural land, the valuation for tax purposes shall be its agricultural or horticultural value.

(3) When land which has been valued and taxed as agricultural land for five (5) or more consecutive years under the same ownership fails to qualify for the classification through no other action on the part of the owner or owners other than ceasing to farm the land, the land shall retain its agricultural classification for assessment and taxation purposes. Classification as agricultural land shall expire upon change of use by the owner or owners or upon conveyance of the property to a person other than a surviving spouse.

(4) If the property valuation administrator assesses any property, except stocks and bonds at the market value listed in recognized publications, at a greater value than that listed by the taxpayer or assesses unlisted property, the property

valuation administrator shall serve notice on the taxpayer of such action. The notice shall be given by first-class mail or as provided in the Kentucky Rules of Civil Procedure.

(5) Any taxpayer may designate on the property schedule any property which he does not consider to be subject to taxation, and it shall be the duty of the property valuation administrator to obtain and follow advice from the ***department***[~~cabinet~~] relative to the taxability of such property.

Section 197. KRS 132.460 is amended to read as follows:

The property valuation administrator, or an authorized deputy, shall attend all hearings before the county board of assessment appeals and before the Kentucky Board of Tax Appeals relative to his assessment and submit to examination and fully disclose to them such information as he may have and any other matters pertinent to the inquiry being made. He shall be entitled to reimbursement from the county for expenses incurred in official business outside his county. If the ***Department of*** Revenue[~~ Cabinet~~] directs him to perform official duties outside of his county, the expenses shall be paid from the appropriation for the payment of the salaries of the property valuation administrators. Such reimbursement shall be paid on the same basis as employees of the Commonwealth are paid for travel expenses.

Section 198. KRS 132.485 is amended to read as follows:

(1) (a) The registration of a motor vehicle with a county clerk in order to operate it or permit it to be operated upon the highways of the state shall be deemed consent by the registrant for the motor vehicle to be assessed by the property valuation administrator from a standard manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~] for valuing motor vehicles for assessment unless the registrant appears before the property valuation administrator to assess the vehicle. The standard value of motor vehicles shall be the average trade-in value prescribed by the valuation manual unless information is available that warrants any deviation from the standard value.

(b) The registration of a recreational vehicle with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant thereof for the recreational vehicle to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~] for valuing recreational vehicles for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.

(2) The registration of a motor vehicle on or before the date that the registration of the vehicle is required is prima facie evidence of ownership on January 1.

(3) This section does not apply to motor vehicles or recreational vehicles owned and operated by public service companies, common carriers, or agencies of the state and federal governments.

Section 199. KRS 132.486 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall develop and administer a centralized ad valorem assessment system for intangible personal property and tangible personal property. This system shall be designed to provide on-line computer terminals and accessory equipment in every property valuation administrator's office in the state in order to create and maintain a centralized personal property tax roll database.

(2) State income tax returns and return preparation instructions shall be revised to facilitate the preparation of the personal property tax return; however, the personal property tax return shall be a separate document and shall be listed with the property valuation administrator in the county of taxable situs according to the provisions of KRS 132.220(1) or with the ***Department of*** Revenue[~~ Cabinet~~]. The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations and develop forms for the listing and assessment of personal property.

(3) Appeals of personal property assessments shall not be made to the county board of assessment appeals. Personal property taxpayers shall be served notice under the provisions of KRS 132.450(4) and shall have the protest and appeal rights granted under the provision of KRS 131.110.

(4) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in a protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

Section 200. KRS 132.487 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall develop and administer a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. This system shall be designed to allow the collection of state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on each motor vehicle at the time of registration of the motor vehicle by the party charged with issuing the registration. The ***department***[~~cabinet~~] shall supervise and instruct the property valuation administrators and other officials with respect to their duties in relation to this system.

(2) Except as otherwise provided by law, the tax rate levied by the state, counties, schools, cities, and special tax districts on motor vehicles shall not exceed the rate that could have been levied on motor vehicles by the district on the January 1, 1983 assessments. All counties, schools, cities, and special taxing districts proposing to levy an ad valorem tax on motor vehicles shall submit to the ***department***[~~cabinet~~] on or before October 1 of the year preceding the assessment date, the tax

rate to be levied against valuations as of that assessment date. Any district that fails to timely submit the tax rate shall receive the rate in effect for the prior year.

(3) The compensating tax rate and maximum possible tax rate allowable for counties, schools, cities, and special taxing districts on property other than motor vehicles for the 1984 and subsequent tax periods shall be calculated excluding all valuations of and tax revenues from motor vehicles from the base amounts used in arriving at these general rates.

(4) The Transportation Cabinet shall provide access to all records of motor vehicle registrations to the ***department***[~~cabinet~~] and the property valuation administrators as necessary to prepare and maintain a complete tax roll of motor vehicles throughout each year.

(5) The property valuation administrator shall, subject to the direction, instruction, and supervision of the ***department***[~~cabinet~~], have responsibility for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The ***department***[~~cabinet~~] may provide standard valuation guidelines for use in valuation of motor vehicles.

(6) The property valuation administrator shall provide to the ***department***[~~cabinet~~] by December 1 of each year a recapitulation of motor vehicles to be assessed as of January 1 of the next year.

(7) Procedures for protest, appeal, and correction of erroneous assessments shall be the same for motor vehicles as for other properties subject to ad valorem taxes.

Section 201. KRS 132.490 is amended to read as follows:

(1) Each county clerk shall, by March 1 of each year, unless the time is extended by the ***Department of*** Revenue[~~ Cabinet~~], make and certify to the various property valuation administrators complete statements of all purchase money notes, mortgage notes and other obligations for money due, except those owned by banks, trust companies or real estate title insurance companies, as shown by the conveyances, mortgages and liens in his office. The statements shall distinctly show the dates of execution and maturity of the notes or other evidences of indebtedness, the consideration, the date of filing or recording, the amount, and the county of the residence of the owner, payee, beneficial holder thereof or other person liable for taxes thereon.

(2) The statements shall be made to each property valuation administrator of the state as to the notes or other evidences of indebtedness owned or held by persons residing or having their principal place of business in the county of that property valuation administrator. Each statement shall cover a period of one (1) year next prior to January 1 of each year. The statements shall be sworn to by the clerk before some person authorized to administer oaths, as a complete statement of the facts.

(3) For his services in making these statements, the clerk shall be paid reasonable compensation by the fiscal court of his county.

Section 202. KRS 132.510 is amended to read as follows:

Every executor, administrator, guardian, conservator, trustee, trustee in bankruptcy, receiver or other person acting in a fiduciary capacity shall, when required, file with the ***Department of*** Revenue[~~ cabinet~~] a sworn inventory showing in detail the amount and character of personal property in his hands, unless the inventory has been filed as a public record in the court in which the fiduciary qualifies. The ***department***[~~cabinet~~] may examine the books and accounts of any person acting in a fiduciary capacity. No fiduciary shall receive a final discharge until he has satisfied the court settling his accounts that all taxes against the estate have been paid.

Section 203. KRS 132.520 is amended to read as follows:

(1) Every bank, trust company, combined bank and trust company, and real estate title insurance company doing business in this state shall, by February 1 of each year, unless the time is extended by the ***Department of*** Revenue[~~ Cabinet~~], file with the ***department***[~~cabinet~~] a report sworn to by its president, vice president, treasurer, or cashier, showing as of January 1 of each year:

   (a) A list of the notes, bonds, or other evidences of indebtedness secured by mortgage or other recorded instrument standing in its name of record that it has assigned or transferred during the preceding year without making a transfer of record, the amount of each, and the name and address of the person to whom each was assigned. Where the name and address of the transferee holding the securities on January 1 of any year is given, any previous transfers of the securities during that year need not be furnished.

   (b) A list of the mortgages standing in its name on January 1 that were assigned of record to it during the preceding year with its knowledge and consent, where it has not become the absolute owner of the debt secured thereby, showing the amount of each such mortgage and the name and address of each assignor. Any mortgage assigned to it during any year and paid and released of record prior to January 1 need not be included in the report.

   (c) A list of all debenture bonds, collateral trust bonds, notes, certificates, and other evidences of indebtedness issued, assigned, or transferred by it during the preceding year that are secured by and represent the beneficial interest in lien notes, bonds, or mortgages standing in its name of record, the amount of each such evidence of indebtedness, and the name and address of the person to whom each was assigned or transferred. Where the name and address of the transferee holding the securities on January 1 of any year is given, any previous transfer or assignment of the securities need not be furnished.

(d) A list of all lien notes, bonds, mortgages, certificates, and other evidences of indebtedness that it has assigned or transferred to any person as security for the issuing of any debenture or collateral trust bonds, the amount of each, and the name and address of the person to whom each was assigned.

(2) The reports required under paragraphs (a) and (b) of subsection (1) of this section need not include sales or pledges from one (1) bank, trust company, or combined bank and trust company to another bank or company, or notes or obligations secured by any recorded instrument executed to a bank, trust company, or a combined bank and trust company in which the obligations secured by the instrument are divided among estates or accounts in charge of the bank or company and regularly and properly entered on its records. The provisions of this section do not apply to mortgages made by corporations to trustees to secure bond issues made by them in the regular course of business, except as provided in paragraph (c) of subsection (1) of this section.

(3) The information thus obtained shall be communicated by the *department*[~~cabinet~~] to the property valuation administrator and the board of assessment appeals of the respective counties in which the true owners of the debts reside.

Section 204. KRS 132.550 is amended to read as follows:

(1) After the county clerk has completed the services required of him upon delivery of the tax rolls and schedules to him by the property valuation administrator, he shall then calculate the taxes due the state, county, school, county polls, and school polls, for each individual taxpayer, opposite their name in the tax rolls, upon the form prescribed by the *Department of* Revenue[~~ Cabinet~~]. The rolls and forms shall be a permanent record of the county clerk's office.

(2) For performing the services required by this section the county clerk shall be paid the sum of fifteen cents ($0.15) for each tax list on the tax rolls, one-half (1/2) of this sum to be paid by the state, and the other one-half (1/2) to be paid by the county.

Section 205. KRS 132.570 is amended to read as follows:

(1) No person shall willfully make a false statement, or, to avoid taxation, make a temporary investment in securities exempt from taxation, or convert any intangible property into nontaxable property outside of this state, or resort to any device to evade taxation. Any person doing so shall be subject to three (3) times the amount of tax upon his property, to be recovered by the sheriff by action in the name of the Commonwealth in the county in which the property is liable for taxation, or by the *Department of* Revenue[~~ Cabinet~~], when the taxes are payable to it, in the Franklin Circuit Court.

(2) No person shall transfer or assign of record any mortgage note, bond or other evidence of indebtedness, secured by any recorded instrument, for the sole purpose of evading the taxes thereon.

Section 206. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the *Department of* Revenue[~~ Cabinet~~] annually. Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the *department*[~~cabinet~~] shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. If the county population as certified by the *department*[~~cabinet~~] increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no affect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the *Department of* Revenue[~~ Cabinet~~] the total number of years, not to exceed four (4) years, that the person has previously served in the office. The *department*[~~cabinet~~] shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Property Valuation Administrators			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$45,387	$46,762	$48,137	$49,513
Group II				
5,000-9,999	49,513	50,888	52,263	53,639

Group III				
10,000-19,999	53,639	55,014	56,389	57,765
Group IV				
20,000-29,999	55,702	57,765	59,828	61,891
Group V				
30,000-44,999	59,828	61,891	63,954	66,017
Group VI				
45,000-59,999	61,891	64,641	67,392	70,143
Group VII				
60,000-89,999	66,017	68,768	71,518	74,269
Group VIII				
90,000-499,999	68,080	71,518	74,957	78,395
Group IX				
500,000 and up	72,206	75,644	79,083	82,521

(3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on July 14, 2000, and shall not be retroactive to the preceding January 1.

(b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1.

(c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an annual incentive of six hundred eighty-seven dollars and sixty-seven cents ($687.67) per calendar year for each forty (40) hour training unit successfully completed based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If a property valuation administrator fails without good cause, as determined by the ***commissioner***[~~secretary~~] of the Kentucky ***Department of*** Revenue[~~ Cabinet~~], to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. No property valuation administrator shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each property valuation administrator shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~]. Each unit shall be available to property valuation administrators in each office based on continuing service in that office. The Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.

(5) Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The ***Department of*** Revenue[~~ Cabinet~~] may make grade classification changes corresponding to any approved for ***department***[~~cabinet~~] employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the ***department***[~~cabinet~~] may extend cost-of-living increases approved for ***department***[~~cabinet~~] employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.

(6) Beginning with the 1990-1992 biennium, the ***Department of*** Revenue[~~ Cabinet~~] shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. The total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the ***Department of*** Revenue[~~ Cabinet~~]. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

(7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the ***Department of*** Revenue[~~ Cabinet~~] a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The ***Department of*** Revenue[~~ Cabinet~~] shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.

(8) Each property valuation administrator may appoint any persons approved by the ***Department of*** Revenue[~~ Cabinet~~] to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the ***Department of*** Revenue[~~ Cabinet~~] and shall be subject to the approval of the ***Department of*** Revenue[~~ Cabinet~~]. The Personnel Cabinet shall provide advice and technical assistance to the ***Department of*** Revenue[~~ Cabinet~~] in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the ***Department of*** Revenue[~~ Cabinet~~] in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the ***Department of*** Revenue[~~ Cabinet~~] prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
----	$100,000,000	$0.005 for each $100 of the first $50,000,000 and $0.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$0.004 for each $100 of the first $100,000,000 and $0.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$0.004 for each $100 of the first $150,000,000 and $0.003 for each $100 over $150,000,000.
300,000,000	----	$0.004 for each $100.

(10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
----	$700,000,000	$25,000
$700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	-----	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the ***Department of*** Revenue[~~ Cabinet~~] only for compensation of approved deputies and

assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.

(12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.

(13) The provisions of this section shall apply to urban-county governments and consolidated local governments. In an urban-county government and a consolidated local government, all the rights and obligations conferred on fiscal courts or consolidated local governments by the provisions of this section shall be exercised by the urban-county government or consolidated local government.

(14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A or when a consolidated local government is established through merger of existing city and county governments as provided by KRS Chapter 67C, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government or consolidated local government with an assessment subject to countywide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government or consolidated local government with an assessment subject to countywide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000), and two hundred thousand dollars ($200,000) for an urban-county government or consolidated local government with an assessment subject to countywide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(15) Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9) and (10) of this section, whichever is greater.

Section 207. KRS 132.597 is amended to read as follows:

(1) The property valuation administrator of each county shall receive an annual expense allowance of three thousand six hundred dollars ($3,600) to be paid from the State Treasury in monthly installments of three hundred dollars ($300). Property valuation administrators shall not be required to keep records verifying expenditures from this expense allowance.

(2) The expense allowance provided in subsection (1) of this section shall be used by the property valuation administrator for expenses incurred in the performance of his duties. The allowance is to provide the necessary funds for payment of all expenditures of the property valuation administrator not directly associated with the assessment of property in his particular county.

(3) Each property valuation administrator shall annually, within each calendar year, participate in a minimum of thirty (30) classroom hours of professional instruction conducted or approved by the ***Department of*** Revenue[~~ Cabinet~~]. Any property valuation administrator failing to meet the ***department's***[~~cabinet's~~] requirements for any calendar year shall not receive the three thousand six hundred dollar ($3,600) annual expense allowance provided in subsection (1) of this section for the subsequent calendar year.

(4) The annual requirement for participation in classroom instruction shall be reduced to fifteen (15) hours for any property valuation administrator awarded the "senior Kentucky assessor" (SKA) professional designation under the provisions of KRS 132.385.

Section 208. KRS 132.601 is amended to read as follows:

(1) The property valuation administrator of any county may, after receiving an approved budget from the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 132.590, obligate and spend any of the local funds accruing to his office under the provisions of KRS 132.590 or KRS 132.285, over and above that actually used in compensating his deputies and assistants, for the purchase of any maps, lists, charts, materials, supplies or equipment, or for other expenses necessary to the proper assessment of property or preparation and maintenance of assessment rolls and records.

(2) The property valuation administrator shall maintain a bank account for the management of local funds received by his office under the provisions of KRS 132.590 and 132.285. Beginning with the 1990-1992 biennium, at the end of each fiscal year a cumulative carryover of local funds equivalent to the total annual local appropriation for the ending fiscal year or five thousand dollars ($5,000), whichever is greater, shall be retained. Any funds in excess of this amount shall be refunded by the property valuation administrator no later than August 1 to the appropriating local governments in direct

proportion to their respective appropriations.

(3) Expenditures made by the office of the property valuation administrator under the provisions of subsection (1) of this section shall be governed by procurement procedures adopted by the fiscal court in the county administrative code required by KRS 68.005. However, after approval of the annual budget for the office of the property valuation administrator provided in KRS 132.590 by the ***Department of*** Revenue[~~ Cabinet~~], the necessity of the expenditure shall not be questioned by the fiscal court. The ***Department of*** Revenue[~~ Cabinet~~] shall have neither authority nor responsibility in the auditing of expenditures made by the property valuation administrator from locally appropriated funds. The Auditor of Public Accounts shall assume the responsibility.

Section 209. KRS 132.605 is amended to read as follows:

(1) The fiscal court of each county shall have jurisdiction and the power to purchase and supply to the property valuation administrator any maps, lists, charts, materials, supplies, equipment or instruments which are reasonably necessary for a complete and accurate assessment of property in the county. The ***Department of*** Revenue[~~ Cabinet~~] is authorized to purchase and loan any property valuation administrator such maps, lists, charts, materials, supplies, equipment or instruments as are urgently needed by any property valuation administrator, provided that the ***Department of*** Revenue[~~ Cabinet~~] keeps a record thereof.

(2) The fiscal court of any county shall provide for the maintenance of all maps, lists, charts, materials, supplies, equipment or instruments owned by a county or supplied to it by the ***Department of*** Revenue[~~ Cabinet~~] or by any source in cooperation with the ***Department of*** Revenue[~~ Cabinet~~] for the purpose of facilitating the assessment of property.

Section 210. KRS 132.620 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall recover from any property valuation administrator all compensation paid to him for assessments that were unauthorized or excessive when and to the extent it is determined by a final order of the board of assessment appeals, Kentucky Board of Tax Appeals, or a court of competent jurisdiction that such assessments were unauthorized or excessive. Whenever the property valuation administrator fails to render the services required of him or he performs any of his duties in such a manner as to fail to comply substantially with the requirements of the law, he shall be required to pay a sum that will reasonably compensate the Commonwealth of Kentucky for its costs in rendering the duties required to be performed by the property valuation administrator. The ***Department of*** Revenue[~~ Cabinet~~] shall notify the property valuation administrator by certified mail, return receipt requested, of any amount charged to be due under this section and a statement of the reasons therefor. The property valuation administrator shall be entitled to a hearing before the Kentucky Board of Tax Appeals, and an appeal may be taken from the final action of the Kentucky Board of Tax Appeals to the courts as provided by law.

(2) Any sum that may become due from any property valuation administrator by reason of this section may be deducted from any amount that the Commonwealth of Kentucky may become obliged to pay such property valuation administrator, or it may be collected from the bondsman of the property valuation administrator.

Section 211. KRS 132.645 is amended to read as follows:

(1) The property valuation administrator of each county shall be paid from the State Treasury each month as provided in KRS 132.590.

(2) Deputies, other authorized personnel, and other authorized expenditures of the property valuation administrator's office shall be paid from the State Treasury monthly as approved by the ***Department of*** Revenue[~~ Cabinet~~] as provided in KRS 132.590 (2).

Section 212. KRS 132.645 is amended to read as follows:

(1) The property valuation administrator of each county shall be paid from the State Treasury each month as provided in KRS 132.590.

(2) Deputies, other authorized personnel, and other authorized expenditures of the property valuation administrator's office shall be paid from the State Treasury monthly as approved by the ***Department of*** Revenue[~~ Cabinet~~] as provided in KRS 132.590 (2).

Section 213. KRS 132.660 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall have authority to order an emergency assessment of all or any part of the taxable property in any taxing district to be made by one (1) or more persons appointed for that purpose by the ***department***[~~cabinet~~], whenever: there has been no regular assessment; the records of an assessment have been destroyed, mutilated or lost; complaint is made by the owners of not less than ten percent (10%) in value of the taxable property in the taxing district; or investigation of the ***department***[~~cabinet~~] discloses that the assessment of property in such taxing district is so grossly inequitable or fiscally infeasible that an emergency exists. The order directing such emergency assessments shall state the reasons therefor and a copy shall be filed in the office of the county clerk where the property lies. Such order, when filed, shall void any assessment for the assessment year for which the emergency assessment is made. Any person appointed to make such an emergency assessment shall have the same powers and duties as the property valuation administrator. Whenever the tax roll has been completed under an emergency assessment and the tentative valuations have been determined, the ***department***[~~cabinet~~] shall cause to be published pursuant to KRS Chapter 424, a notice as to the date when the tax roll will be ready for inspection and the time available for such purpose; also a copy of the notice shall be

posted at the courthouse door. If any property is assessed at a greater value than that listed by the taxpayer or unlisted property is assessed, the taxpayer shall be charged with notice of such action by reason of the inspection period, and no further notice need be given of such action taken before the beginning of the inspection period. At the close of the inspection period, the tax roll shall be delivered to the county clerk and the county judge/executive shall immediately convene the board of assessment appeals to hear and determine any appeals from such emergency assessment. The board shall remain in session for the time and shall receive the compensation as provided in KRS 133.030(3). Appeals shall be taken and heard from such emergency assessments in the same manner as appeals from regular assessments.

(2) The ***department***[~~cabinet~~] may appoint the property valuation administrator to make an emergency assessment provided he was not at fault, and if the property valuation administrator is so appointed he shall receive reasonable compensation for his services in making this assessment, which shall not affect in any manner the payment to him of any compensation that he has received for himself or on behalf of a deputy or that may be due him, for services in making the regular assessment. Whenever through the property valuation administrator's fault an emergency assessment is ordered, the property valuation administrator shall become liable for the cost thereof as provided in KRS 132.620, such cost to be limited to the amount due or paid him in accordance with the provisions of KRS 132.590.

Section 214. KRS 132.670 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall prepare detailed maps identifying every parcel of real property within each county of the state. Each county shall furnish to the ***department***[~~cabinet~~] adequate facilities in the county courthouse in which to work. The ***Department of*** Revenue[~~ Cabinet~~] shall prescribe methods and specifications for the mapping of property. Personnel authorized to assist in making property identification maps under this section may be given the same authority as a deputy property valuation administrator. Locally employed mapping project personnel shall be compensated in the same manner as deputies or assistants in the property valuation administrator's office.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall conduct a biennial review of the quality of maps and ownership records in each county. If, in the first review conducted under these provisions, the maps and records in any county fail to meet the minimum standards established by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] shall assume responsibility for remapping, revision, and updating under the provisions of subsection (1) of this section. Minimum maintenance standards to be followed by each property valuation administrator shall be established by the ***department***[~~cabinet~~].

Section 215. KRS 132.672 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] is authorized to establish an account entitled the "mapping project account" which is a fund created within the restricted fund group set forth in KRS 45.305. The purpose of this account is to provide funds for the mapping project as set forth in KRS 132.670. This account shall not lapse.

(2) There is hereby authorized to be deposited into this account the balance of the money heretofore deposited in the "Kentucky Wastewater Revolving Fund" created pursuant to KRS 107.600, now repealed.

(3) The ***commissioner***[~~secretary~~] of revenue or any person duly authorized by him shall have the authority to withdraw from this account for the purpose set forth in subsection (1) of this section.

Section 216. KRS 132.690 is amended to read as follows:

(1) Each parcel of taxable real property or interest therein subject to assessment by the property valuation administrator shall be revalued during each year of each term of office by the property valuation administrator at its fair cash value in accordance with standards prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and shall be physically examined no less than once every four (4) years by the property valuation administrator or his assessing personnel. In accordance with procedures prescribed by the ***Department of*** Revenue[~~ Cabinet~~], the property valuation administrator shall submit an assessment schedule to the ***department***[~~cabinet~~] and shall maintain a record of physical examination and revaluation for each parcel of real property which includes, in addition to other relevant information, the inspection dates.

(2) The right of any individual to appeal the assessment on his property in any year as provided in KRS 133.120 shall in no way be affected by this section.

(3) If the property valuation administrator fails to revalue property as required by this section, the ***Department of*** Revenue[~~ Cabinet~~] shall have the authority to order an emergency revaluation in the same manner as provided for emergency assessments by KRS 132.660. Any property valuation administrator willfully violating the provisions of subsection (1) of this section or who refuses to comply with the directions of the ***Department of*** Revenue[~~ Cabinet~~] to correct the assessment shall have his compensation suspended by the ***department***[~~cabinet~~] and shall be subject to removal from office as provided by KRS 132.370(4) and shall be subject to the provisions of KRS 132.620 and 61.120.

(4) Nothing in this section shall prohibit action by the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 133.150 or 132.660 in any year in which the ***department***[~~cabinet~~] determines such action to be necessary.

Section 217. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased

because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth of Kentucky on January 1 of the year in which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification for the entirety of the particular taxation period.

(d) Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis.

(e) Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying the unit, but the sixty-five hundred dollars ($6,500) exemption shall be construed to mean sixty-five hundred dollars ($6,500) in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one percent (1%), the maximum exemption shall be adjusted accordingly.

(f) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(g) A mobile home, recreational vehicle, when classified as real property as provided for in KRS 132.751, or a manufactured house shall qualify as a residential unit for purposes of the homestead exemption provision.

(h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator, or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city, or special district purposes.

(4) The provisions of this section shall become effective with the 1982 taxable year and persons eligible for a homestead exemption under this section, who have not previously filed under the age provision of the homestead exemption, shall file applications by December 31 of the taxation period.

(a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification at the end of the taxation period for which the homestead exemption has been granted. In no case shall the exemption be prorated for persons who maintained the total disability classification at the end of the taxation period.

(b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.

(c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.

(d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

(5) In this section, "taxation period" means the period from January 1 through December 31 of the year in which application is made, unless the person maintaining the classification dies before December 31, in which case "taxation period" means the period from January 1 to the date of death.

Section 218. KRS 132.815 is amended to read as follows:

(1) Each electrical inspector certified under KRS 227.489 shall submit a monthly report to the ***Department of*** Revenue[~~Cabinet~~] showing the names and addresses of all persons, firms, or corporations for which inspections were conducted for new buildings, new or relocated mobile homes, and other new or relocated structures during the preceding month. Each building, mobile home, or other structure shall be identified by county and property address, or property location in those instances where the address is insufficient to reveal the physical location of the property.

(2) The information provided shall be used for the purpose of making and maintaining accurate assessment records. The ***Department of*** Revenue[~~ Cabinet~~] shall provide to each electrical inspector the necessary forms and instructions for filing the report required under subsection (1).

Section 219. KRS 132.820 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances. Unmined coal, oil, and gas reserves and other mineral or energy resources shall in all cases be valued and assessed by the ***Department of*** Revenue[~~ Cabinet~~] as a distinct interest in real property, separate and apart from the surface real estate unless:

(a) The unmined coal, oil and gas reserves, and other mineral or energy resources are owned in their entirety by the surface owner;

(b) The surface owner is neither engaged in the severance, extraction, processing, or leasing of mineral or other energy resources nor is he an affiliate of a person who engages in those activities; and

(c) The surface is being used by the surface owner primarily for the purpose of raising for sale agricultural crops, including planted and managed timberland, or livestock or poultry.

For purposes of this section, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, file a return with the ***department***[~~cabinet~~] in a form as the ***department***[~~cabinet~~] may prescribe. Other individuals or corporations having knowledge of the property defined in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the ***department***[~~cabinet~~] to file a return.

(3) Any property subject to assessment by the ***department***[~~cabinet~~] under subsection (1) of this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be omitted property.

(4) After the valuation of unmined minerals or other energy sources has been finally fixed by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection.

(5) The notification, protest, and appeal of assessments under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 131.

(6) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(7) The collection of tax bills generated from the assessments made under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 134.

Section 220. KRS 132.990 is amended to read as follows:

(1) Any person who willfully fails to supply the property valuation administrator or the ***Department of*** Revenue[~~ Cabinet~~] with a complete list of his property and such facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars ($500).

(2) Any property valuation administrator who willfully fails or neglects to perform any duty legally imposed upon him shall be fined not more than five hundred dollars ($500) for each offense.

(3) Any county clerk who willfully fails or neglects to perform any duty required of him by KRS 132.480 or by KRS 132.490 shall be fined not more than fifty dollars ($50) for each offense.

(4) Any person who willfully falsifies application for exemption or who fails to notify the property valuation administrator of any changes in qualifying requirements under the provision of KRS 132.810 shall be fined not more than five hundred dollars ($500).

Section 221. KRS 133.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the county board of assessment appeals.

(2) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(3) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(4) "Real property" includes all lands within this state and improvements thereon.

(5) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

Section 222. KRS 133.020 is amended to read as follows:

(1) The county board of assessment appeals shall be composed of reputable real property owners residing in the county at least five (5) years. The appointing authorities may appoint qualified property owners residing in adjacent counties when qualified members cannot be secured within the county. The board shall consist of three (3) members, one (1) to be appointed by the county judge/executive, one (1) to be appointed by the fiscal court, and one (1) to be appointed by the mayor of the city with the largest assessment using the county tax roll or appointed as otherwise provided by the comprehensive plan of an urban-county government. Beginning with the 1995 appeals, the mayor's appointment shall serve for four (4) years, the county judge/executive's appointment shall serve for three (3) years, and the fiscal court's appointment shall serve for two (2) years. Each person appointed thereafter shall serve for three (3) years. If no city in the county uses the county assessment, the county judge/executive shall appoint two (2) members. Board members appointed prior to July 14, 1994, shall be eligible for reappointment by the appointing authority if they meet the requirements of subsection (2) of this section. A board member who has served for a full term shall not be eligible for reappointment. However, he shall be eligible for appointment after a hiatus of three (3) years. If the number of appeals to the board of assessment appeals filed with the county clerk exceeds one hundred (100), temporary panels of the board may be appointed with approval of the ***Department of*** Revenue[~~ Cabinet~~]. Each temporary panel shall consist of three (3) members having the same qualifications and appointed in the same manner as the board members. The number of additional panels shall not exceed one (1) for each one hundred (100) appeals in excess of the first one hundred (100). The county judge/executive shall designate one (1) of the members of the board of assessment appeals to serve as chairman of the board. If additional panels are appointed, as provided in this subsection, the chairman of the board of assessment appeals shall designate one (1) member of each additional panel as chairman of the panel. A majority of the board or of any panel may determine the action of the board or panel respectively and make decisions. Each panel of the board shall have the same powers and duties given the board by KRS 133.120, except the action of any panel shall be subject to review and final approval by the board.

(2) Each member of the board shall have extensive knowledge of real estate values, preferably in real estate appraisal, sales, management, financing, or construction. In counties with cities of the first, second, or third class, the member appointed by the mayor shall be a certified real estate appraiser unless the mayor provides sufficient proof to the ***department***[~~cabinet~~] of his inability to secure a certified real estate appraiser.

(3) The board shall be subject to call by the county judge/executive at any time prescribed by law.

(4) The members of the county board of assessment appeals, and any panel of the board, before undertaking their duties, shall take the following oath, to be administered by the county judge/executive: "You swear (affirm) that you will, to the best of your ability, discharge the duties required of you as a member of the county board of assessment appeals, and that you will fix at fair cash value all property assessments brought before you for review as prescribed by law."

(5) The ***department***[~~cabinet~~] shall prepare and furnish to each property valuation administrator guidelines and materials for an orientation and training program to be presented to the board by the property valuation administrator or his deputy each year.

(6) A board member shall produce evidence of his qualifications upon request of the ***department***[~~cabinet~~]. A board member shall be replaced by the appointing authority upon proof of the member's failure to meet the qualifications of the position. Any vacancy on the board shall be filled by the appointing authority that appointed the member to be replaced. The appointee shall have the qualifications required by statute for the board member appointed by the particular appointing authority and shall hold office only to the end of the unexpired term of the member replaced.

(7) Members of the county board of assessment appeals, and any temporary panel, shall abstain from hearing or ruling on an appeal for any property in which they have any personal or private interests.

Section 223. KRS 133.030 is amended to read as follows:

(1) The county board of assessment appeals shall convene each year at the county seat no earlier than twenty-five (25) days and no later than thirty-five (35) days following the conclusion of the tax roll inspection period provided for in KRS 133.045; except that no meeting shall be held until the tax roll has been completed and the inspection period has been held as provided by law, or until revaluation of the property has been completed by the property valuation administrator at the direction of the ***Department of*** Revenue[~~ Cabinet~~] as provided by KRS 132.690 or by the ***department***[~~cabinet~~] itself as provided by KRS 133.150. All records of the property valuation administrator, including all data concerning property sales within the preceding year, shall be available to the board while meeting.

(2) The first regular meeting day of the board shall be devoted to the orientation and training program provided for in KRS 133.020(5), to a review of the assessment of the property valuation administrator and his deputies, and to a review of the appeals filed with the county clerk as clerk of the board, including a review of recent sales of comparable properties provided in accordance with the provisions of subsection (1) of this section, and an inspection of the properties involved in the appeals when in the opinion of the board such inspection will assist in the proper determination of fair cash value.

(3) The board of assessment appeals shall continue in session only such time as is necessary to hear appeals. The board shall not continue in session more than one (1) day, if there are no appeals to be heard, nor more than five (5) days after it convenes in each year, unless an extension of time is authorized by the ***Department of*** Revenue[~~ Cabinet~~] upon request of the county judge/executive. Each board member shall be paid one hundred dollars ($100) for each day he serves. This

compensation shall be paid one-half (1/2) out of the county levy and the other half out of the State Treasury.

(4) Members of temporary panels of the board shall serve the time necessary for hearing appeals but in no case more than five (5) days except upon approval of an extension of time by the ***Department of*** Revenue[~~ Cabinet~~]. Compensation of panel members shall be in the same manner and at the same rate as provided for members of the board.

Section 224. KRS 133.040 is amended to read as follows:

(1) The property valuation administrator shall complete the tax roll of all real property in his county before the first Monday in April of each year in accordance with law, and on or before that date he shall file with the ***department***[~~cabinet~~], on forms provided by the ***department***[~~cabinet~~], a recapitulation of all property assessed on the tax roll with his official certificate attached. The recapitulation shall show the assessment of property by type of property and by taxing district. Within fifteen (15) calendar days after receiving the recapitulation, the ***department***[~~cabinet~~] shall direct the property valuation administrator to make any changes that are necessary to correct the assessment. The ***department***[~~cabinet~~] shall preserve all recapitulations and schedules or a photographic facsimile for a period of seven (7) years from the assessment date.

(2) At the time the property valuation administrator submits his property recapitulations to the ***department***[~~cabinet~~], he shall submit a copy of the recapitulations to the county judge/executive, the treasurer or chief officer of each special district in the county, the chief administrative officer of the urban-county, and the superintendent of each local school district in his county.

(3) Beginning with the 1995 assessment year, if the property valuation administrator has not submitted an acceptable recapitulation to the ***department***[~~cabinet~~] by the first Monday in August, the ***department***[~~cabinet~~] shall, within fifteen (15) days, conduct an investigation into the reasons for the failure. The ***department***[~~cabinet~~] shall notify the property valuation administrator in writing of his right to appear before the ***commissioner***[~~secretary~~] or his designee during the investigation to provide an explanation for the failure to submit an acceptable recapitulation. At any time after the completion of an investigation resulting in a finding that the failure to submit an acceptable recapitulation was not reasonably justified, the ***department***[~~cabinet~~] may declare an emergency assessment under the provisions of KRS 132.660.

(4) If the ***commissioner***[~~secretary~~] determines upon the conclusion of the investigation that the failure to submit an acceptable recapitulation was not reasonably justified, the ***commissioner***[~~secretary~~] shall notify the property valuation administrator in writing of the ***department's***[~~cabinet's~~] findings, and of the ***department's***[~~cabinet's~~] intent to suspend the property valuation administrator's compensation as of the date of the notification and until the date an acceptable recapitulation is submitted. The notification shall inform the property valuation administrator that the amount of compensation suspended under this subsection is subject to forfeiture as provided in subsection (5) of this section.

(5) The property valuation administrator may, within ten (10) days of the date of notice provided for in subsection (4) of this section, request in writing a formal administrative hearing before a ***department***[~~cabinet~~] hearing officer appointed by the ***commissioner***[~~secretary~~]. All hearings shall be conducted in accordance with KRS Chapter 13B. If in the recommended order:

(a) The hearing officer determines, and the ***commissioner***[~~secretary~~] agrees, that the failure to submit an acceptable recapitulation was not reasonably justified, the ***commissioner***[~~secretary~~] shall reaffirm the notice of forfeiture provided for in subsection (4) of this section and issue a final order in writing to the property valuation administrator.

(b) The hearing officer determines, and the ***commissioner***[~~secretary~~] agrees, that the failure to submit an acceptable recapitulation was reasonably justified, the ***commissioner***[~~secretary~~] shall notify the property valuation administrator in a final order, and compensation suspended under subsection (4) of this section shall be paid with interest at the tax interest rate defined in KRS 131.010(6).

(6) If the property valuation administrator does not request in writing a formal administrative hearing within the time prescribed in subsection (5) of this section, the ***commissioner***[~~secretary~~] shall reaffirm the notice of forfeiture provided for in subsection (4) of this section and issue a final order in writing to the property valuation administrator.

(7) The property valuation administrator may appeal the ***commissioner's***[~~secretary's~~] final order in the same manner, and subject to the same provisions as set forth in KRS 132.370(7).

(8) A property valuation administrator who fails to submit an acceptable recapitulation, within the times prescribed in subsection (3) of this section and after a previous finding that a prior year's failure to submit an acceptable recapitulation was determined to not be reasonably justified, shall be subject to removal from office as provided by KRS 132.370(4).

Section 225. KRS 133.045 is amended to read as follows:

(1) The real property tax roll being prepared by the property valuation administrator for the current year, shall be open for inspection in the property valuation administrator's office for thirteen (13) days beginning on the first Monday in May of each year and shall be open for inspection for six (6) days each week, one (1) of which shall be Saturday. In case of necessity, the ***department***[~~cabinet~~] may order a reasonable extension of time for the inspection period of the tax roll or it may order that the inspection period be at a different time than that provided in this section. However, the final day of the inspection period shall not be Saturday, Sunday, or a legal holiday.

(2) The property valuation administrator shall cause to be published once during the week before the beginning of the inspection period, as provided in subsection (1) of this section, in a display type advertisement, the following information:

(a) The fact that the real property tax roll is open for public inspection;

(b) The dates of the inspection period;

(c) The times available for public review of the real property tax roll;

(d) The fact that any taxpayer desiring to appeal an assessment shall first request a conference with the property valuation administrator to be held prior to or during the inspection period; and

(e) Instructions which provide details on the manner in which a taxpayer who has had a conference with the property valuation administrator may file an appeal, if he is aggrieved by an assessment made by the property valuation administrator.

The cost of the notice shall be paid by the fiscal court of the county. The notice shall also be posted at the courthouse door. Failure to publish or post notices when the inspection period is at the regular time as provided in this section shall not invalidate assessments made by the property valuation administrator and recorded on the tax roll prior to the inspection period.

Section 226. KRS 133.047 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 61.870 to 61.884, when the ***Department of*** Revenue[~~ Cabinet~~] has completed action on the assessment of property in any county and has certified the assessment to the county clerk of that county, as provided for in KRS 133.180, the property tax roll, or a copy of the property tax roll, shall be retained in the office of the property valuation administrator for maintenance as an open public record for five (5) years. The property tax roll shall be available for public inspection during the regular working hours of the office of the property valuation administrator as provided for in KRS 132.410(2).

(2) Any person inspecting a property tax roll shall do so in a manner not unduly interfering with the proper operation of the custodian's office.

(3) Personal property tax returns, accompanying documents, and assessment records, with the exception of the certified personal property tax roll, shall be considered confidential under the provisions of KRS 131.190.

(4) Real property tax returns and accompanying documents submitted by a taxpayer shall be considered confidential under the provisions of KRS 131.190. Other real property records in the office of the property valuation administrator shall be subject to the provisions of KRS 61.870 to KRS 61.884. However, notwithstanding the provisions of KRS 61.874 the ***Department of*** Revenue[~~ Cabinet~~] shall develop and provide to each property valuation administrator a reasonable fee schedule to be used in compensating for the cost of personnel time expended in providing information and assistance to persons seeking information to be used for commercial or business purposes. Any person seeking information on his own property, or any other person, including the press, seeking information directly related to property tax assessment, appeals, equalization, requests for refunds, or similar matters shall not be subject to fees for personnel time.

(5) The ***Department of*** Revenue[~~ Cabinet~~] shall provide advice, guidelines, and assistance to each property valuation administrator in implementing the provisions of KRS 61.870 to 61.884.

Section 227. KRS 133.110 is amended to read as follows:

(1) After submission of the final real property recapitulation or certification of the personal property assessment, the property valuation administrator may correct clerical, mathematical, or procedural errors in an assessment or any duplication of assessment. Changes in assessed value based on appraisal methodology or opinion of value shall not be valid. All corrections shall be reviewed by the ***Department of*** Revenue[~~ Cabinet~~] and those changes determined by the ***department***[~~cabinet~~] to be invalid shall be rescinded. Any taxpayer affected by this rescission shall not be subject to additional penalties.

(2) Notwithstanding other statutory provisions, for property subject to a tax rate that is set each year based on the certified assessment, any loss of property tax revenue incurred by a taxing district due to corrections made after the tax rate has been set may be recovered by making an adjustment in the tax rate to be set for the next tax year.

Section 228. KRS 133.120 is amended to read as follows:

(1) Any taxpayer desiring to appeal an assessment on real property made by the property valuation administrator shall first request a conference with the property valuation administrator or his designated deputy. The conference shall be held prior to or during the inspection period provided for in KRS 133.045. Any person receiving compensation to represent a property owner at a conference with the property valuation administrator for a real property assessment shall be an attorney, a certified public accountant, a certified real estate broker, a Kentucky licensed real estate broker, an employee of the property owner, or any other individual possessing a professional appraisal designation recognized by the ***department***[~~cabinet~~]. A person representing a property owner before the property valuation administrator shall present written authorization from the property owner which sets forth his professional capacity and shall disclose to the property valuation administrator any personal or private interests he may have in the matter, including any contingency fee arrangements. Provided however, attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement. During this conference, the property valuation administrator or his deputy shall provide an explanation to the taxpayer of the constitutional and statutory provisions governing property tax administration, including the appeal process, as well as an explanation of the procedures followed in deriving the assessed value for the taxpayer's property. The property valuation administrator or his deputy shall keep a record of each conference which shall include, but shall not be limited to, the initial assessed value, the value claimed by the taxpayer, an explanation of any changes offered or agreed

to by each party, and a brief account of the outcome of the conference. At the request of the taxpayer, the conference may be held by telephone.

(2) Any taxpayer still aggrieved by an assessment on real property made by the property valuation administrator after complying with the provisions of subsection (1) of this section may appeal to the board of assessment appeals. The taxpayer shall appeal his assessment by filing in person or sending a letter or other written petition stating the reasons for appeal, identifying the property for which the appeal is filed, and stating to the county clerk the taxpayer's opinion of the fair cash value of the property. The appeal shall be filed no later than one (1) workday following the conclusion of the inspection period provided for in KRS 133.045. The county clerk shall notify the ***department***[~~cabinet~~] of all assessment appeals and of the date and times of the hearings. The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the county judge/executive, mayor of any city using the county assessment, or the superintendent of any school district in which the property is located, if the recommendation is made to the board in writing specifying the individual properties recommended for review and is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045, or upon the written recommendation of the ***department***[~~cabinet~~]. If the board of assessment appeals determines that the assessment should be increased, it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of an increase. Any real property owner who has listed his property with the property valuation administrator at its fair cash value may ask the county board of assessment appeals to review the assessments of real properties he believes to be assessed at less than fair cash value, if he specifies in writing the individual properties for which the review is sought and factual information upon which his request is based, such as comparable sales or cost data and if the request is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(3) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (2) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value. The ***department***[~~cabinet~~] may be present at the hearing and present any pertinent evidence as it pertains to the appeal. The taxpayer shall provide factual evidence to support his appeal. If the taxpayer fails to provide reasonable information pertaining to the value of the property requested by the property valuation administrator, the ***department***[~~cabinet~~], or any member of the board, his appeal shall be denied. This information shall include, but shall not be limited to, the physical characteristics of land and improvements, insurance policies, cost of construction, real estate sales listings and contracts, income and expense statements for commercial property, and loans or mortgages. The board of assessment appeals shall only hear and consider evidence which has been submitted to it in the presence of both the property valuation administrator or his designated deputy and the taxpayer or his authorized representative.

(4) Any person receiving compensation to represent a property owner in an appeal before the board shall be an attorney, a certified public accountant, a certified real estate appraiser, a Kentucky licensed real estate broker, an employee of the taxpayer, or any other individual possessing a professional appraisal designation recognized by the ***department***[~~cabinet~~]. A person representing a property owner before the county board of assessment appeals shall present a written authorization from the property owner which sets forth his professional capacity and shall disclose to the county board of assessment appeals any personal or private interests he may have in the matter, including any contingency fee arrangements. Provided however, attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.

(5) The board shall provide a written opinion justifying its action for each assessment either decreased or increased in the record of its proceedings and orders required in KRS 133.125 on forms or in a format provided or approved by the ***department***[~~cabinet~~].

(6) The board shall report to the property valuation administrator any real property omitted from the tax roll. The property valuation administrator shall assess the property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(7) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(8) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(9) No appeal shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which he claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(10) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky Board of Tax Appeals. Any persons aggrieved by a decision of the board,

including the property valuation administrator, taxpayer, and ***department***[~~cabinet~~], may appeal the decision to the Kentucky Board of Tax Appeals. Any taxpayer failing to appeal to the county board of assessment appeals, or failing to appear before the board, either in person or by designated representative, shall not be eligible to appeal directly to the Kentucky Board of Tax Appeals.

(11) The county attorney shall represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. If the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.

(12) Taxpayers shall have the right to make audio recordings of the hearing before the county board of assessment appeals. The property valuation administrator may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of the ***department's***[~~cabinet's~~] recording as provided in KRS 61.874.

(13) The county board of assessment appeals shall physically inspect a property upon the request of the property owner or property valuation administrator.

Section 229. KRS 133.123 is amended to read as follows:

When an appeal is taken from an assessment by the property valuation administrator, of property which the owner does not consider to be subject to taxation, it shall be the duty of the county board of assessment appeals to obtain and follow advice from the ***Department of*** Revenue[~~ Cabinet~~] relative to the taxability of such property; however, the board shall have full power and responsibility to make a determination of the fair cash value of such property.

Section 230. KRS 133.125 is amended to read as follows:

(1) No later than three (3) working days after the expiration of the inspection period provided for in KRS 133.045, the county clerk shall provide a copy to the property valuation administrator of each appeal petition and a summary of the appeals filed with the county board of assessment appeals. The summary shall be in a format, or on a form, provided or approved by the ***Department of*** Revenue[~~ Cabinet~~]. The property valuation administrator shall, within three (3) working days of receipt of the summary, prepare and submit to the ***Department of*** Revenue[~~ Cabinet~~] a final recapitulation of the real property tax roll incorporating all changes made since the submission of the first recapitulation. Those properties under appeal shall be listed for recapitulation and certification purposes at the value claimed by the taxpayer. After submission of the final recapitulation to the ***Department of*** Revenue[~~ Cabinet~~], assessments shall not be amended except for adjustments ordered by the board and for corrections made under the provisions of KRS 133.110 and KRS 133.130.

(2) The county clerk, or an authorized deputy, shall act as clerk of the board of assessment appeals; and where additional board panels are appointed, as provided by law, one (1) authorized deputy shall act as clerk for each panel. An accurate record of the proceedings and orders of the board and of each of its authorized panels shall be kept and shall show the name of the owner of the property, the description, the type of property, the amount of the assessment the property valuation administrator placed on the property, and the amount of change made in the assessment by the board. A copy certified by the chairman of the board and attested by the county clerk shall be filed by the clerk with the property valuation administrator and with the ***Department of*** Revenue[~~ Cabinet~~] within five (5) days after the adjournment of the board.

(3) The county clerk shall certify to the county judge/executive the number of days during which the board was in session, and the court shall enter this fact of record along with the amount due the board members for their services. On a presentation of a copy of the order, the Finance and Administration Cabinet shall draw a warrant on the State Treasurer in favor of the board members and clerk for the amount due for their services.

(4) The county clerk and any authorized deputies serving as clerk of the board or a panel thereof shall be allowed the same compensation per day for their services as is allowed to members of the board of their county, and they shall be paid in the same manner as members of the board are paid. The county clerk and his authorized deputies shall be allowed compensation for completing and filing the record of the board in the same manner as allowed for their services while acting as clerk of the board or clerk of a panel of the board.

Section 231. KRS 133.130 is amended to read as follows:

(1) Any person claiming to be erroneously charged with any tax upon property not owned by him may, after he has received notice of the same by demand made upon him to pay the tax, offer evidence in support of the complaint to the property valuation administrator of the county in which the assessment was made. If the property valuation administrator finds that he was not the owner of the property assessed, he may correct the same by releasing him from the payment of the tax, and shall assess the property immediately against the rightful owner.

(2) A protest may be made to the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 131.110 from any action of the property valuation administrator made under this section or under KRS 133.110.

Section 232. KRS 133.150 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall equalize each year the assessments of the property among the counties. It shall compare the recapitulation of the property valuation administrator's books from each county with the records of sales of land in such county or with such other information that it may obtain from any source and shall determine the ratio of the assessed valuation of the property to the fair cash value. The ***Department of*** Revenue[~~ Cabinet~~] shall have power to increase or decrease the aggregate assessed valuation of the property of any county or taxing district thereof or any class of property or any item in any class of property. The ***Department of*** Revenue[~~ Cabinet~~] shall fix the assessment of all property at its fair cash value. When the property in any county, or any class of property in any county, is not assessed at its fair cash value, such assessment shall be increased or decreased to its fair cash value by fixing the percentage of increase or decrease necessary to effect the equalization.

Section 233. KRS 133.160 is amended to read as follows:

When it is contemplated by the ***Department of*** Revenue[~~ Cabinet~~] that it will be necessary to raise the assessed valuation of property in any county, it shall give notice of the contemplated action to the county judge/executive, the superintendent of any school district affected by such action, the mayor of any city which is affected and which has adopted the assessment, and to the taxpayers of that county through the county judge/executive, who shall post the notice sent him on the courthouse door and certify to the ***Department of*** Revenue[~~ Cabinet~~] that this has been done, and it shall fix a time and place for a hearing which may be in Frankfort or any convenient place in or nearer the county seat.

Section 234. KRS 133.170 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.

(2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the aggregate increase to the Kentucky Board of Tax Appeals within ten (10) days from the date of the certification.

(3) Within ten (10) days from the date that the ***department's***[~~cabinet's~~] aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the Kentucky Board of Tax Appeals or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the ***department's***[~~cabinet's~~] action.

(4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal; and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy, of each application for exoneration to the ***Department of*** Revenue[~~ Cabinet~~] and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.

(5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of adjournment of the regular board session.

(6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the ***Department of*** Revenue[~~ Cabinet~~] and to the other taxing districts participating in the tax.

(7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the Kentucky Board of Tax Appeals as provided in KRS 131.340, and appeals thereafter may be taken to the courts as provided in KRS 131.370.

(8) The provisions of KRS 133.120(9) shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.

(9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 133.150.

Section 235. KRS 133.180 is amended to read as follows:

When the ***Department of*** Revenue[~~ Cabinet~~] has completed its action on the assessment of property in any county, it shall immediately certify to the county clerk the assessment and the amount of taxes due. The ***Department of*** Revenue[~~ Cabinet~~] shall charge the amount of taxes due from the county to the sheriff of the county. When any item of property is in process of appeal and the valuation has not been finally determined, the certification of such property shall be based on the valuation claimed by the taxpayer as the true value. The county clerk shall affix the certification to the tax books and enter it of record in the order book, and it shall be the sheriff's or collector's warrant for the collection of taxes.

Section 236. KRS 133.181 is amended to read as follows:

If the ***Department of*** Revenue[~~ Cabinet~~], in making its equalization of the property in any county in accordance with the provisions of KRS 133.150, causes any increase or decrease to be made in the value of any property, the county clerk shall correct the tax books to comply with the final certification of the assessment by the ***department***[~~cabinet~~]. As compensation for his services, the clerk shall receive the same compensation per day that he receives for serving as clerk of the board of assessment appeals for as many days as are necessary to make the corrections but not to exceed a total of ten (10) days. One-half (1/2) of such amounts shall be paid out of the county levy and one-half (1/2) out of the State Treasury. Such sums shall be paid at the same time and in the same manner as is the clerk's compensation for preparing the tax bills under KRS 133.240(2).

Section 237. KRS 133.185 is amended to read as follows:

Except as provided in KRS 132.487, no tax rate for any taxing district imposing a levy upon the county assessment shall be determined before the assessment is certified by the ***Department of*** Revenue[~~ Cabinet~~] to the county clerk as provided in KRS 133.180.

Section 238. KRS 133.200 is amended to read as follows:

(1) In proceedings brought by the state, or by the state on relation of some officer authorized to bring the proceeding, to set aside any order or judgment of a court assessing for taxes for state, county, school or other taxing district purposes any property or omitted property, on the ground of inadequacy of valuation, mistake, fraud, or on any other ground, and to cause a larger assessment to be adjudged, the ***commissioner***[~~secretary~~] of revenue may direct the drawing of warrants on the State Treasurer to pay from time to time such court costs and reasonable expenses as may be incurred on behalf of the state, including the cost of taking and filing depositions and witnesses' fees, and the payment of official court reporters for services and for a copy of the testimony or depositions.

(2) If the state is successful in the proceedings, and the costs of the action are collected, the costs advanced by the state shall be repaid into the State Treasury.

Section 239. KRS 133.220 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] annually shall furnish to each county clerk tax bill forms designed for adequate accounting control sufficient to cover the taxable property on the rolls.

(2) After receiving the forms, the county clerk shall prepare for the use of the sheriff or collector a correct tax bill for each taxpayer in the county whose property has been assessed and whose valuation is included in the certification provided in KRS 133.180. If the bills are bound, the cost of binding shall be paid out of the county levy. Each tax bill shall show the rate of tax upon each one hundred dollars ($100) worth of property for state, county, and school purposes; the name of the taxpayer and his mailing address; the number of acres of farm land and its value; the number of lots and their value; the amount and value of notes and money; the value of mixed personal property; and the total amount of taxes due the state, county, school fund, and other levies. Provision shall be made for the sheriff to have a stub, duplicate, or other proper evidence of receipt of payment of each tax bill.

(3) Tax bills prepared in accordance with the certification of the ***Department of*** Revenue[~~ Cabinet~~] shall be delivered to the sheriff or collector by the county clerk before September 15 of each year. The clerk shall take a receipt showing the number of tax bills and the total amount of tax due each taxing district as shown upon the tax bills. The receipt shall be signed and acknowledged by the sheriff or collector before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff.

(4) Upon delivery to him of the tax bills, the sheriff or collector shall mail a notice to each taxpayer, showing the total amount of taxes due the state, county, school fund, and other levies, the date on which the taxes are due, and any discount to which the taxpayer may be entitled upon payment of the taxes prior to a designated date.

(5) All notices returned as undeliverable shall be submitted no later than the following work day to the property valuation administrator. The property valuation administrator shall correct inadequate or erroneous addresses if the information to do so is available and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the corrected notices to the sheriff or collector on a daily basis as corrections are made, but no later than fifteen (15) days after receipt. Uncorrected notices shall be submitted to the ***department***[~~cabinet~~] by the property valuation administrator.

Section 240. KRS 133.225 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall draft, and the sheriff shall mail with the property tax bills annually, an explanation of the provisions of Acts 1979 (Ex. Sess.) ch. 25.

Section 241. KRS 133.230 is amended to read as follows:

Upon receipt of a certification of omitted property by the property valuation administrator or by the ***Department of*** Revenue[~~ Cabinet~~], the county clerk shall make out for the use of the sheriff or collector a tax bill for each taxpayer who owes omitted taxes. The omitted tax bills shall be attested by the clerk in the same manner as the tax bills described in KRS 133.220. The clerk shall deliver the omitted tax bill to the sheriff or collector as soon as the omitted property has been finally assessed.

Section 242. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents ($0.30) for calculating the state, county, and school tax and preparing a tax bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the ***Department of*** Revenue[~~ Cabinet~~] for the recapitulation sheets. If found

correct, the court shall allow the account, and order one-half (1/2) of it paid out of the levy and the other one-half (1/2) out of the State Treasury. The county clerk shall certify the allowance to the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer in favor of the county clerk for the state's one-half (1/2).

(3) The above county allowance shall likewise be paid to the county clerk for calculation of the state, county, city, consolidated local government, urban-county government, school, and special district tax for each individual motor vehicle taxpayer, based upon certification from the ***Department of*** Revenue[~~ Cabinet~~] of the number of accounts as of January 1 each year.

Section 243. KRS 133.250 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall conduct sales-assessment ratio studies for each county and shall submit the ratio to each property valuation administrator by September 1 of each year or within thirty (30) days of submission of the property valuation administrator's final recapitulation to the ***department***[~~cabinet~~] as provided for in KRS 133.125, whichever date is later. Randomly selected sample appraisals shall be conducted by the ***Department of*** Revenue[~~ Cabinet~~] for each class of real property in each county no less than once every two (2) years to supplement sales data used in the assessment ratio study and to verify and enhance the statistical validity of the ratio study in determining measures of central tendency and variation.

(2) The property valuation administrator shall begin revaluation of property in his county, in preparation for the following year's property assessment, immediately following submission of the final recapitulation to the ***Department of*** Revenue[~~ Cabinet~~] as provided for in KRS 133.125.

(3) By January 30 of each year, the ***Department of*** Revenue[~~ Cabinet~~] shall cause to be published in the newspaper of largest circulation in each county, a listing of the percentage of fair cash value attainment of real property assessments as calculated by assessment ratio studies which shall be conducted by the ***Department of*** Revenue[~~ Cabinet~~].

Section 244. KRS 133.990 is amended to read as follows:

(1) The failure of any member to be in attendance promptly on the days fixed for the sessions of the county board of assessment appeals without reasonable excuse shall subject him to a fine of not exceeding twenty-five dollars ($25).

(2) Any county clerk who fails to make out, for the use of the sheriff or collector, the book or books of tax bills and stubs provided in KRS 133.220, and deliver same to the sheriff or collector on or before September 15 of each year, shall pay a penalty of ten dollars ($10) for each day's delay which must be deducted by the ***Department of*** Revenue[~~ Cabinet~~] from such sum, or sums, as may be due, or become due from the Commonwealth for official duties, and the date of the receipt required to be signed by the sheriff or collector by the provisions of KRS 133.220 shall be prima facie evidence of the delivery of same.

(3) Any county clerk who, without reasonable excuse, fails to return to the ***Department of*** Revenue[~~ Cabinet~~] copies of any books, papers, or records required by it in the manner and at the time prescribed by law, shall, upon conviction, be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each offense.

Section 245. KRS 134.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Commissioner***[~~Secretary~~]" means the ***commissioner***[~~secretary~~] of revenue.

(2) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(6) "Tax claim" includes, in addition to the taxes due on a tax bill, the penalties, costs, fees, interest, commissions, the lien provided in subsection (1) of KRS 134.420 and other such items or expenses that have become or are by reason of the delinquent tax bill proper legal charges imposed by this chapter against the delinquent taxpayer at any given time.

(7) "Uncollectible tax bill" means a tax bill of a delinquent who owns no real property and which has been returned to the fiscal court by the sheriff or collector because there is insufficient or no personal property to satisfy it, and which has been allowed and approved in the settlement with the court as uncollectible.

(8) "Sheriff" includes any collector whose duty it is to receive or collect state, county or district taxes.

Section 246. KRS 134.020 is amended to read as follows:

(1) All state, county, and district taxes, except as otherwise provided by law, shall be due and payable on September 15 following the assessment; except that all taxes in any year on unmanufactured tobacco, money in hand, or money on deposit outside this state, shall be due and payable on the second succeeding September 15 following the assessment, unless otherwise provided by law.

(2) Any taxpayer who pays his state, county, or district taxes by November 1 after they become due in any year shall be entitled to two percent (2%) discount thereon, and the sheriff shall allow the discount and give a receipt in full to the taxpayer. The sheriff may, at any time after the taxes mentioned in this section become due, receive less than the face amount of the tax bill as a credit on the amount due, including the amount of any penalties then due; and every payment

shall be credited upon the tax bill or upon sheets annexed thereto for that purpose, and acknowledged in writing or by a rubber stamp, indicating the amount so paid to the sheriff. The sheriff or any authorized collector of property taxes may accept payment of taxes due by any commercially acceptable means, including credit cards.

(3) All state, county, and district taxes, except as otherwise provided by law, shall become delinquent on January 1 following their due date.

(4) Any taxes which are not paid by the date when they become delinquent shall be subject to a penalty of ten percent (10%) on the taxes due and unpaid; except that taxes which became delinquent on January 1 shall be subject to a penalty of only five percent (5%) on the taxes due and unpaid, if paid on or before the last day of January. The sheriff shall collect the penalty and account for it as he is required to collect and account for taxes.

(5) When the tax collection schedule is delayed, through no fault of the taxpayers, the ***Department of*** Revenue[~~ Cabinet~~] may institute a revised collection schedule. The revised collection dates shall allow a two percent (2%) discount for all payments made within thirty (30) calendar days of the date the tax bills were mailed. Upon expiration of the time period to pay the tax bill with a discount, the face amount of the tax bill shall be due during the next thirty (30) days. If the time period to pay the face amount has lapsed, a five percent (5%) penalty shall be added to the tax bill for payments made during the next thirty (30) day period. Upon expiration of this time period, a ten percent (10%) penalty shall be added to all tax bills paid thereafter.

(6) If, upon expiration of the five percent (5%) penalty period, the real property tax delinquencies of the sheriff exceed fifteen percent (15%), the sheriff shall be required to make additional reasonable collection efforts. If the sheriff fails to initiate additional reasonable collection efforts within fifteen (15) business days following the expiration of the five percent (5%) penalty period, the ***commissioner***[~~secretary~~] of the ***department***[~~cabinet~~] may act in the name of and on behalf of the cities, counties, schools, and other taxing districts to collect the delinquent taxes. In the performance of any tax collection duties undertaken by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] shall have all the powers, rights, and authority for the collection of taxes established in Chapters 131, 132, 133, and 134 of the Kentucky Revised Statutes. If the ***department***[~~cabinet~~] assumes collection duties, all fees and commissions which the sheriff would have been entitled to receive from the taxing districts after the expiration of the five percent (5%) penalty period shall be paid to the ***department***[~~cabinet~~] for deposit in the delinquent tax fund as provided in KRS 134.400.

Section 247. KRS 134.040 is amended to read as follows:

If a tax is paid before the taxpayer's liability has been ascertained or before the taxpayer is notified thereof, the acceptance and deposit into the State Treasury of the remittance by the ***Department of*** Revenue[~~ Cabinet~~] shall not imply that the payment was the correct amount due, nor preclude assessment and collection of additional taxes found to be due, or refund of any part of the amount paid that may be in excess of that determined to be due.

Section 248. KRS 134.050 is amended to read as follows:

(1) Every tax imposed by law and all increases, penalties and interest thereon shall be a personal debt of the person liable for the payment thereof, from the time the tax becomes due until paid. In addition to all other remedies, the collection thereof may be enforced in the same manner as the collection of any other debt due the state. The penalty prescribed by KRS 135.060, when applicable, shall be applied to the amount of the original tax, interest and penalties.

(2) The ***Department of*** Revenue[~~ Cabinet~~] may refuse to accept a personal check as remittance in payment of taxes due or collected by any person who has ever tendered the state a check which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

Section 249. KRS 134.148 is amended to read as follows:

(1) The sheriff may, at the time he settles his accounts with the fiscal court, pursuant to KRS 134.310 provide the county clerk with a list of taxpayers whose tax bills on motor vehicles or trailers are delinquent.

(2) The county clerk may file a lien on such vehicle or trailer on behalf of the state, county, city, special district and school district and record such lien on the face of the certificate of title and registration and in the manner in which lis pendens are recorded. Delinquent tax bills shall be subject to interest at the rate of one percent (1%) per month or fraction thereof from the date the lien is filed until paid.

(3) (a) No licensed automobile dealer shall be responsible for any tax lien not recorded on the certificate of title and registration presented to the dealer by the seller at the time of the dealer's purchase of the motor vehicle or trailer.

(b) In the event that a tax lien was recorded on the clerk's copy of the certificate of title and registration, but not on the copy of the certificate of title and registration presented to the dealer by the seller at the time of the dealer's purchase of the motor vehicle or trailer, prior to the purchase of the motor vehicle or trailer by the dealer, upon presentation of proof to the county clerk that such was the case, the county clerk shall file such proof with his copy of the certificate of title and registration and shall remove the lien.

(4) In the event that a bona fide purchaser for value without notice purchases a motor vehicle or a trailer on which no lien has been filed on the certificate of title of such motor vehicle or trailer as provided for in subsection (2) of this section, such person shall not be held responsible for paying delinquent ad valorem taxes or lien fees on the certificate of title of such motor vehicle or trailer if such lien was placed on the certificate of title after same person's purchase of the motor vehicle or trailer.

(5) Upon proof being presented to the county clerk that the motor vehicle or trailer was transferred to a bona fide purchaser for value without notice prior to the placing of a lien on a certificate of title and registration, the clerk shall file such proof with the certificate of title and registration and shall then remove the lien.

(6) The lien filing fee, as provided for in KRS 64.012, shall be added to the tax bill and be payable with the lien releasing fee by the registrant at the time of payment of the delinquent tax to the county clerk.

(7) The county clerk shall give a receipt to the registrant and make a report to the ***Department of*** Revenue[~~ Cabinet~~], the county treasurer and the other proper officials of all taxing districts that are due proceeds from the payment on the last working day of each month. He shall pay to the ***Department of*** Revenue[~~ Cabinet~~] for deposit with the State Treasurer all moneys collected by him due to the state, to the county treasurer, all moneys due to the county and to the proper officials of all other taxing districts, the amount due each district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies or parties entitled thereto.

Section 250. KRS 134.150 is amended to read as follows:

No field agent, accountant or attorney of the ***Department of*** Revenue[~~ Cabinet~~] may collect any money due the state, or any county, school or other taxing district without specific written authority from the ***commissioner***[~~secretary~~] of revenue.

Section 251. KRS 134.160 is amended to read as follows:

(1) The sheriff shall keep his office at the county seat, except in counties where he has an office already established in a city other than the county seat, in which case he shall continue his office at the place now established. The fiscal court shall provide him with a room or rooms for an office, with a vault or place of safety in which to keep the records of his office. He shall keep his office open for the collection of taxes at all reasonable times, except on Sundays and legal holidays.

(2) The sheriff shall keep an accurate account of all moneys received by him, showing the amount, the time when and the person from whom received, and on what account. He shall also keep an accurate record of all disbursements made by him, showing the amount, to whom paid, the time of payment, and on what account. He shall so arrange and keep his books that the amounts received and paid on account of separate and distinct appropriations shall be exhibited in separate and distinct accounts. He shall balance his books on the first day of each month, so as to show the correct amount on hand belonging to each fund on the day the balance is made. The books shall be paid for as other county records.

(3) The sheriff shall keep his books and accounts in the manner and form required by the ***Department of*** Revenue[~~ Cabinet~~].

(4) The books of the sheriff shall be open at all times to the inspection of the Auditor of Public Accounts, the ***Department of*** Revenue[~~ Cabinet~~], the fiscal court or any member thereof, the Commonwealth's and county attorneys, and any taxpayer or person having any interest therein.

Section 252. KRS 134.190 is amended to read as follows:

(1) A sheriff who believes, on reasonable grounds, that any person from whom a tax is due is about to conceal or remove his property from the state, county or taxing district shall immediately collect the taxes in the manner provided for the collection of taxes, costs and penalties of delinquent taxpayers.

(2) Anyone holding royalties or payments derived from property shall, if requested by the ***Department of*** Revenue[~~ Cabinet~~], sheriff, or collector, remit payment for delinquent taxes due on that property. However, the amount remitted shall not exceed the total amount being held. The delinquent tax payment may be deducted from the royalties or payments owed to the property owner. The property tax bill receipt shall be evidence of payment and authorization for deduction.

Section 253. KRS 134.215 is amended to read as follows:

(1) An outgoing sheriff, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records, and other property held by virtue of his office, and make a complete settlement of his accounts as sheriff, except as otherwise provided in this section.

(2) All unpaid tax bills and bills upon which partial payments have been accepted in the possession of the sheriff upon the date of expiration of his term shall be turned over to the incoming sheriff, who shall collect and account for them as provided by law. The outgoing sheriff shall take a receipt from the incoming sheriff for the unpaid and partially paid tax bills. This receipt shall show in detail for each unpaid and for each partially paid tax bill the total amount due each taxing district as shown upon the tax bills. Provided, however, in counties containing a population of seventy thousand (70,000) or over, the receipt shall show the total amount due each taxing district as shown upon the unpaid and partially paid tax bills. The receipt shall be signed and acknowledged by the incoming sheriff before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff. A certified copy of the receipt as recorded in the order book of the county judge/executive shall be filed with the ***Department of*** Revenue[~~ Cabinet~~]. The outgoing sheriff and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt, and the incoming sheriff shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes. If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.

(3) Each outgoing sheriff shall make a final settlement with the ***Department of*** Revenue[~~ Cabinet~~] and the fiscal court and

taxing district of his county by March 15 immediately following the expiration of his term of office for all charges of taxes made against him and for all money received by him as sheriff and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent sheriff.

(4) For purposes of accounting for unpaid and partially paid tax bills, either the outgoing sheriff, the incoming sheriff, or both, may, by giving advance notice by publication pursuant to KRS Chapter 424, refuse to accept payment of ad valorem taxes during any or all of that portion of their terms of office from January 1 through January 15. Irrespective of whether the office refuses to accept payment of taxes during any or all of this fifteen (15) day period, both the incoming and outgoing sheriffs shall have working access to the office facilities and to the records and mail of the sheriff's office relating to the payment, collection, and refund of ad valorem taxes on property. Interest shall not be assessed or collected for the period during which payment of taxes is prohibited under the terms of this section.

(5) The outgoing sheriff shall be allowed and paid in accordance with KRS 64.140 and 64.530 the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include office expenses and salaries of himself, deputies, and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining, verifying, and recording the unpaid and partially paid tax bills turned over to the incoming sheriff.

Section 254. KRS 134.240 is amended to read as follows:

The bond of the sheriff executed pursuant to KRS 134.230 shall be, in substance, as follows: "We, A B (sheriff), and C D and E F, his sureties, bind and obligate ourselves, jointly and severally, to the Commonwealth of Kentucky, that the said A B (sheriff), shall faithfully perform his duties. Witness our signature this .... of ....." The bond shall be executed in duplicate. One (1) duplicate shall be filed and recorded in the county clerk's office, and the other shall be sent to the ***Department of*** Revenue[~~ Cabinet~~] and filed in its office.

Section 255. KRS 134.270 is amended to read as follows:

Neither the sheriff nor a surety shall be liable for any act or default of the sheriff in connection with his revenue duties unless notice of the act or default of the sheriff giving rise to a claim upon the bond has been given to the surety by the ***Department of*** Revenue[~~ Cabinet~~], the county judge/executive, the county attorney, or other person asserting the claim within ninety (90) days after discovery or at the latest within one (1) year after the end of the year within which the bond was executed.

Section 256. KRS 134.280 is amended to read as follows:

(1) On the failure of the sheriff to execute bond and qualify as provided in KRS 134.230 he shall forfeit his office, and the county judge/executive may appoint a sheriff to fill the vacancy until a sheriff is elected, or it may appoint a collector for the county of all moneys due the state, county or taxing district authorized to be collected by the sheriff, or it may appoint a separate collector of all the moneys due the state, county or any taxing district thereof during the vacancy in the office of sheriff. If the county judge/executive fails for thirty (30) days to appoint a collector of money due the state, the ***Department of*** Revenue[~~ Cabinet~~] may appoint a collector thereof. These collectors shall, within ten (10) days after their appointment, execute bond as required of the sheriff, to be approved by the county judge/executive, and if the bond is not executed within that time the appointment of another collector may, in like manner, be made, but such collector shall be required to give bond for and collect only the taxes or moneys provided for in the order of the county judge/executive appointing him.

(2) A sheriff who forfeits his office under subsection (1) of this section, or who resigns his office, shall not be appointed deputy sheriff or collector for the county, or elisor, deputy collector or deputy elisor.

Section 257. KRS 134.290 is amended to read as follows:

(1) In counties where the state taxes charged to the sheriff for the year are less than seventy-five thousand dollars ($75,000), he shall be allowed by the ***Department of*** Revenue[~~ Cabinet~~], for collecting such taxes, a commission of ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter percent (4.25%) upon the residue.

(2) In counties where county taxes and special district taxes, excluding school taxes, charged to the sheriff for the year are less than one hundred fifty thousand dollars ($150,000), he shall be allowed by the county treasurer for collecting such taxes ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter percent (4.25%) upon the residue.

(3) Notwithstanding the provisions of subsection (1) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall allow the sheriff a commission for 1996 and subsequent years equal to the amount allowed the sheriff in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.

(4) Notwithstanding the provisions of subsection (2) of this section, the county treasurer shall allow the sheriff a commission for 1996 and subsequent years equal to the amount allowed the sheriff in 1995, or the amount required by the provisions of subsection (2) of this section, whichever is greater.

Section 258. KRS 134.310 is amended to read as follows:

(1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court after making settlement with

the ***Department of*** Revenue[~~ Cabinet~~]. The fiscal court shall appoint some competent person other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The ***department***[~~cabinet~~], at the request of the fiscal court or any school district, may conduct the local settlement. If no local settlement has been initiated by July 1 of any year, the ***department***[~~cabinet~~] may initiate the local settlement on behalf of the local district. Upon completion of the local settlement, the ***department***[~~cabinet~~] may receive reasonable reimbursement for expenses incurred. The report of the state and local settlement shall be filed in the county clerk's office and approved by the county judge/executive no later than September 1 of each year. The settlement shall show the amount of ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published pursuant to KRS Chapter 424. The report of the settlement shall be subject to objections by the sheriff or by the county attorney, who shall represent the state and county, and the county judge/executive shall determine the objections. Objections shall be submitted to the county judge/executive within fifteen (15) days of the filing of the settlement in the clerk's office. If no objections are submitted, the settlement will become final.

(3) If the county judge/executive denies the objections, the sheriff may institute an action in Circuit Court within fifteen (15) days of receipt of the denial for review of the settlement and objections. Upon review, the Circuit Court shall issue its determination and the settlement shall become final. The final settlement shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810.

(4) On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300, and shall pay any additional amounts charged against him as a result of the settlements. If the sheriff fails to remit amounts charged against him the ***department***[~~cabinet~~] may issue bills for the subsequent year and may assume all collection duties in the name of and on behalf of the cities, counties, school districts, and other taxing districts to collect the taxes. In the performance of any tax collection duties undertaken by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] shall have all the powers, rights, and authority for the collection of taxes established in Chapters 131, 132, 133, and 134 of the Kentucky Revised Statutes. The fees and commissions which the sheriff would have been entitled to receive from the taxing districts shall be paid to the ***department***[~~cabinet~~].

(5) In counties containing a population of less than seventy thousand (70,000), the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(6) At the time he files the statements required by subsection (5) of this section, the sheriff shall pay to the fiscal court any fees, commissions, and other income of his office, including income from investments, which exceed the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830.

(7) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.

Section 259. KRS 134.320 is amended to read as follows:

(1) The sheriff shall, by the tenth day of each month, or more often as may be required by the ***Department of*** Revenue[~~ Cabinet~~] to prevent the sheriff from having funds in his possession in excess of the amount of his bond, report under oath to the ***department***[~~cabinet~~] the amount of all state taxes he has collected during the preceding month, or for such period as the ***department***[~~cabinet~~] may require.

(2) The sheriff shall, at the time of making this report, pay to the ***department***[~~cabinet~~], for deposit with the State Treasurer, all taxes he has collected for the state for the preceding month or period.

(3) The ***department***[~~cabinet~~] may report to the grand jury of Franklin County any sheriff failing to report as required. Any sheriff failing to pay over any taxes collected by him and due the state, as provided by law, shall be required by the ***department***[~~cabinet~~] to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof plus interest at the legal rate per annum on such taxes. The ***department***[~~cabinet~~] in its settlement with the sheriff shall charge him with such penalties and interest.

(4) The ***Department of*** Revenue[~~ Cabinet~~] may grant an extension of time, not to exceed fifteen (15) days, for filing the report required by subsection (1) whenever, in its judgment, good cause therefor exists. The extension shall be in writing, and the ***department***[~~cabinet~~] shall keep a record of such extensions. The extension when granted shall suspend the penalty and interest provided by subsection (3) for the duration of the extension. The penalty and interest shall apply at the expiration of the extension.

Section 260. KRS 134.325 is amended to read as follows:

Each sheriff shall conduct the sale of delinquent tax bills required by KRS 134.430 and make his records available for settlement with the ***Department of*** Revenue[~~ Cabinet~~] for all taxes collected for the Commonwealth before April 30 of each year during his term of office. In the event that any sheriff resigns, dies, or otherwise vacates his office, the books and records shall be made available within thirty (30) days from the date that the office is vacated. Any sheriff who fails to make the settlement books and records available or fails to remit any amounts which are due to the taxing districts as required by law shall be subject to indictment in the county of his residence and fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000).

Section 261. KRS 134.330 is amended to read as follows:

(1) No tax bill or tax book shall be delivered to the sheriff during the second or any subsequent calendar year of the sheriff's regular term until he exhibits a quietus from the ***Department of*** Revenue[~~ Cabinet~~] and from the fiscal court of his county for the preceding tax period and his revenue bond, if bonding is required by the fiscal court, for the next tax year.

(2) If the tax records of a county are destroyed by fire, lost, stolen, or mutilated so as to require reassessment of the property in the county or a recertification of the tax bills, the sheriff shall have five (5) months from the time he receives the recertified tax bills within which to make settlement with the ***department***[~~cabinet~~] and the fiscal court, and to receive his quietus from the ***department***[~~cabinet~~] and the fiscal court.

Section 262. KRS 134.340 is amended to read as follows:

(1) The sheriff shall, when he collects money from a delinquent taxpayer, record the tax, interest and penalty on his record book kept for that purpose.

(2) If the sheriff fails to record the money collected from a delinquent taxpayer, or fails to collect the tax due from a delinquent taxpayer if it was collectible by sale or otherwise when it came to his hands, he shall be held liable on his bond for the amount of tax, penalties, interest and costs due from the delinquent taxpayer that was collectible, plus thirty percent (30%) penalty thereon, to be recovered in the Circuit Court of the county in which the tax is due, on motion of the county attorney or agent of the ***Department of*** Revenue[~~ Cabinet~~] in the name of the state. The county attorney shall prosecute all such motions, for which services he shall be entitled to the penalties thereon recovered of the sheriff, but only if the tax, interest, costs, and penalties due are recovered and paid to the officers entitled to receive the same. The sheriff shall have ten (10) days' previous notice of the motion.

Section 263. KRS 134.360 is amended to read as follows:

In making his settlements with the fiscal court and the ***Department of*** Revenue[~~ Cabinet~~], the sheriff shall file a list of uncollectible delinquent taxes, which shall entitle the sheriff to a credit in his official settlement. The sheriff shall also be allowed credit in his official settlement for the tax bills on which certificates of delinquency have properly been issued to the state, county, and taxing districts.

Section 264. KRS 134.380 is amended to read as follows:

(1) The ***commissioner***[~~secretary~~] may act in the name of and in behalf of the state and in the name of and in behalf of any and all counties, consolidated local government, school, and other taxing districts in the state to institute and prosecute any action or proceeding for the collection of delinquent taxes and the assessment of omitted property. If the ***department***[~~cabinet~~] assumes the duties of collecting the delinquent taxes assessed under the authority of KRS Chapter 132, it shall have all the powers, rights, duties, and authority conferred generally upon the ***department***[~~cabinet~~] by the Kentucky Revised Statutes, including but not limited to Chapters 131, 134, and 135.

(2) Field agents, accountants, and attorneys of the ***department***[~~cabinet~~] shall prosecute all actions and proceedings under the direction of the ***commissioner***[~~secretary~~]. Field agents, accountants, attorneys, and all other employees of the ***department***[~~cabinet~~] engaged in the prosecution of the actions shall not be hired by personal service contract. The ***commissioner***[~~secretary~~] shall prosecute diligently, or cause to be prosecuted by field agents, accountants, and attorneys employed by him, the collection of all delinquent taxes due the state.

(3) Nothing contained in this chapter shall prevent the ***commissioner***[~~secretary~~] of revenue from assessing any property in accordance with the provisions of KRS 136.020, 136.030, 136.050, or 136.120 to 136.180.

(4) The ***department***[~~cabinet~~] may require the use of any reports, forms, or databases necessary to administer the law in connection with the collection of delinquent taxes. The ***department***[~~cabinet~~] shall require an index to be kept of all certificates of delinquency.

Section 265. KRS 134.385 is amended to read as follows:

The ***department***[~~cabinet~~] shall conduct a special audit to determine the presence or absence of chronic underassessment in any county for which the sales-assessment ratio studies conducted under the provisions of KRS 133.250 indicates a ratio below eighty percent (80%) for two (2) consecutive calendar years. The audit may be conducted through the use of randomly-selected sample appraisals or other means reasonably calculated to present an accurate determination of assessment practices in the county.

Section 266. KRS 134.390 is amended to read as follows:

A tax bill rendered against omitted property required to be listed with the property valuation administrator or the ***Department of*** Revenue[~~ Cabinet~~] or against an increase in valuation over that claimed by the taxpayer, as finally determined upon appeal as provided for in KRS 133.120, shall become due on the day the bill is prepared, and shall be considered delinquent and subject to a penalty of ten percent (10%) of the tax, penalty and interest due, unless paid within thirty (30) days after it becomes due, except as otherwise provided by law. All provisions of law of the particular taxing district having an interest therein relating to delinquent taxes on the same class of property or taxpayers involved shall apply to the delinquent omitted tax bill unless otherwise provided by law.

Section 267. KRS 134.400 is amended to read as follows:

(1) All penalties imposed by law, either in whole or in part, in favor of or for the benefit of agents of the ***Department of*** Revenue[~~ Cabinet~~], sheriffs, and other state, county, or district agents or officers, upon or for the recovery of taxes or the assessment of omitted property, shall be paid into the State Treasury and credited as provided for the twenty percent (20%) penalty in subsection (2) of this section.

(2) The twenty percent (20%) penalty collected on taxes due the state, county, school, or other taxing district shall be paid into the State Treasury. One-fourth (1/4) of the moneys thus received shall be credited to the general expenditure fund. The remaining three-fourths (3/4) shall also be credited to the general expenditure fund unless the General Assembly, in its biennial branch budget bill, provides that it be credited to a fund to be designated and known as the delinquent tax fund, in which case it shall be so credited and so much thereof as may be necessary shall be used for the administration and enforcement of the laws relating to the collection of delinquent taxes and the assessment of omitted property. All salaries, fees, and expenses authorized by the laws relating to the collection of delinquent taxes and the assessment of omitted property, except the fees of county attorneys, shall be payable out of the delinquent tax fund upon certifications or requisitions of the ***commissioner***[~~secretary~~] of revenue.

Section 268. KRS 134.410 is amended to read as follows:

Should any life insurance company, casualty company, marine insurance, fire insurance, security or indemnity company be in debt to the state for back taxes, or should any of such companies fail to pay into the State Treasury the correct amount of taxes due the state, the ***commissioner***[~~secretary~~] of revenue shall cause an investigation to be made of their books and accounts, and employ such expert accountants as he may deem necessary for such work. The granting of power to the ***commissioner***[~~secretary~~] to investigate the books and accounts of those engaged in the business of insurance for the purposes set forth in this section shall not be construed as a denial of power to the ***commissioner***[~~secretary~~] to investigate for the same purposes the books and accounts of individuals or corporations engaged in other types of business, who have failed to pay into the State Treasury the correct amount of tax due the state.

Section 269. KRS 134.420 is amended to read as follows:

(1) The state and each county, city, or other taxing district shall have a lien on the property assessed for taxes due them respectively for ten (10) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation, or any means except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering the taxes. The lien shall include all interest, penalties, fees, commissions, charges, costs, reasonable attorney fees, and other expenses incurred by reason of delinquency in payment of the tax bill or certificate of delinquency or in the process of collecting either, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county, or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated. Every city of the third, fourth, fifth, and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens.

(2) If any person liable to pay any tax administered by the ***Department of*** Revenue[~~ Cabinet~~], other than a tax subject to the provisions of subsection (1) of this section, neglects or refuses to pay the tax after demand, the tax due together with all penalties, interest, and other costs applicable provided by law shall be a lien in favor of the Commonwealth of Kentucky. The lien shall attach to all property and rights to property owned or subsequently acquired by the person neglecting or refusing to pay the tax.

(3) The lien imposed by subsection (2) of this section shall remain in force for ten (10) years from the date the notice of tax lien has been filed by the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~], or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or any county in which the taxpayer has an interest in property.

(4) The tax lien imposed by subsection (2) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of the tax lien has been filed by the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The recording of the tax lien shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the ***Department of*** Revenue[~~ Cabinet~~] shall disclose the specific amount of liability at a given date to any interested party legally entitled to the information.

(5) Even though notice of a tax lien has been filed as provided by subsection (4) of this section, and notwithstanding the

provisions of KRS 382.520, the tax lien imposed by subsection (2) of this section shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made within forty-five (45) days after the date of tax lien filing or the date the person making the disbursements had actual notice or knowledge of tax lien filing, whichever is earlier, provided the security interest:

(a) Is in property which:

1. At the time of tax lien filing is subject to the tax lien imposed by subsection (2) of this section; and

2. Is covered by the terms of a written agreement entered into before tax lien filing; and

(b) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

Section 270. KRS 134.430 is amended to read as follows:

(1) All personal property owned by a delinquent taxpayer shall be subject to distraint, and all property owned by him shall be subject to levy and sale by the proper collecting officer at any time from February 1 after the tax claim becomes delinquent until the tax claim is barred by limitations, unless otherwise provided by law.

(2) When any taxpayer becomes delinquent in the payment of a tax bill covering any property assessed by the property valuation administrator, the county board of assessment appeals, the ***department***[~~cabinet~~], or any omitted property irrespective of by whom assessed, the sheriff may distrain a sufficient quantity of the delinquent's personal property in the county to pay the tax claim, and a necessary part of this property shall be sold as under execution for cash. Neglect on the part of the sheriff to distrain and sell personal property shall not affect the validity of the sale of the tax claim, or the lien or the rights of any purchaser. If personal property sufficient to satisfy the tax claim cannot be found in the county, the sheriff may sell so much of the personal property as is found and enter proper credit on the tax bill.

(3) As compensation for services, the sheriff shall be entitled to an additional ten percent (10%) of that part of the tax claim represented by the total taxes plus ten percent (10%) penalty, for all delinquent taxes collected from the time the ten percent (10%) penalty becomes applicable through the sale of the tax claims. This fee shall be added to the total amount due and paid by the person paying the delinquent tax bill.

(4) If no personal property is found, or the amount found is insufficient, the sheriff shall, no later than the first full week in April, advertise for sale the tax claims of the state, county, and other taxing districts, if there is any real property subject to the lien provided in subsection (1) of KRS 134.420. The sheriff shall receive offers for the purchase of tax claims up to fifteen (15) business days following the date of the initial advertisement or no later than April 30, or the last business day prior to April 30, if April 30 falls on a weekend or holiday.

(5) No sheriff shall knowingly sell a tax claim on the same tract of land more than once for the same tax.

Section 271. KRS 134.450 is amended to read as follows:

(1) The sheriff shall sell all tax claims for which payment by the delinquent taxpayer has not been made by the closing date for the acceptance by the sheriff of offers to purchase delinquent tax claims. If there is more than one (1) willing purchaser who has made an offer, the one having made the most recent purchase of a tax claim against the same delinquent or the same property shall have preference; if there is no such person, the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim shall receive priority for the purchase of the tax claim. If the total of all offers to purchase exceeds ten percent (10%) of the total dollar amount of the delinquent bills offered for sale, or the sum of two hundred thousand dollars ($200,000), whichever is less, the sheriff shall notify the Finance and Administration Cabinet of the offers of purchase within five (5) business days of the closing date when the offers were received. Upon receipt of the notice, the Finance and Administration Cabinet shall purchase the delinquent tax bills upon which the sheriff has received an offer of purchase and shall tender payment to the sheriff within fifteen (15) business days of the receipt of the sheriff's notice. Upon purchase of the tax claims, the state shall be the owner of the tax bills and may contract with the county attorney to collect all amounts due on its behalf under the terms and conditions of the county attorney's contract with the ***Department of*** Revenue[~~ Cabinet~~] to collect delinquent taxes. If the county attorney has not contracted with the ***Department of*** Revenue[~~ Cabinet~~] to collect delinquent taxes, the ***Department of*** Revenue[~~ Cabinet~~] shall collect all amounts due on behalf of the Finance and Administration Cabinet. If the Finance and Administration Cabinet does not purchase all of the delinquent tax bills, within fifteen (15) days of the closing date, the sheriff shall complete the sale of those tax claims for which the sheriff has received responsible offers to purchase. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~], and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

(2) If no responsible offer in the amount of the tax claim is received, the sheriff shall purchase it for the state, county, and taxing districts having an interest in the tax claim. In such case, the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one other than the state, county, or taxing district is the purchaser.

(3) The sheriff shall file all certificates of delinquency in the county clerk's office immediately upon completion of the tax sale, or in a county containing a city of the first class or consolidated local government, within fourteen (14) working days of the sale, and the clerk shall retain them. The county clerk shall acknowledge receipt of the certificates by signing a receipt

form that has been prepared in a manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. If the sheriff fails to file the certificates, he shall be liable on his official bond for the aggregate amount of the certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original.

(4) The clerk shall make, execute, and deliver a certified copy of a certificate of delinquency to the payor, or the clerk may provide for a certified electronic register of the certificates of delinquency in the clerk's record in lieu of delivering a certified copy of the certificate of delinquency.

(5) The certificate of delinquency is assignable by endorsement. The clerk shall note the assignment on the certificate of delinquency or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. An assignment when noted on the record in the office of the county clerk vests in the assignee all rights and title of the original purchaser.

Section 272. KRS 134.480 is amended to read as follows:

(1) The delinquent taxpayer or any person owning or having a legal or equitable interest in real property covered by a certificate of delinquency may at any time pay the total amount of the certificate to any purchaser thereof, and any person whatsoever may likewise pay a certificate of delinquency when the state, county, or taxing district was the purchaser. When a certificate is paid to an owner other than the state, county, or taxing district, the assignee shall mark paid in full on the certified copy of the certificate and shall surrender the certified copy of the certificate of delinquency to the person making payment, and if he is the person primarily liable on the certificate he may file it with the county clerk and have the certificate released of record. When a certificate of delinquency has been fully paid to the state, county, and taxing districts, the clerk shall note the name and address of the person making the payment, the amount paid by him, and such other information as the ***Department of*** Revenue[~~ Cabinet~~] may require. The clerk shall mark the certificate of delinquency paid in full. Payment in such instance by one other than the person primarily liable on the certificate will amount to an assignment thereof. The clerk shall note the assignment on the certificate of delinquency and provide the assignee a certified copy of the certificate of delinquency, or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. Anyone other than the person primarily liable who pays a certificate or purchases it from an owner other than the state, county, and taxing district may, by paying a fee of fifty cents ($0.50), have the clerk record the payment or purchase and such recordation shall constitute an assignment thereof. Failure to obtain such an assignment shall render the claim of such payor or purchaser to any real estate represented thereby inferior to rights of other bona fide purchasers, payors, or creditors. Any owner of a certificate of delinquency once having paid the assignment fee may have a change of his address noted of record by the clerk without paying an additional charge, otherwise he shall pay a fee of fifty cents ($0.50) to the clerk for entering such change on the certificate.

(2) The county clerk may receive payment of the amount due on certificates of delinquency owned by the state, county, and taxing districts, and he shall give a receipt to the payor and make a report to the ***Department of*** Revenue[~~ Cabinet~~], the county treasurer, and the proper officials of the taxing districts as often as such units may require, and not less than once in every thirty (30) days. The clerk may accept payment of taxes due by any commercially acceptable means, including credit cards. He shall pay to the ***Department of*** Revenue[~~ Cabinet~~] for deposit with the State Treasurer all moneys collected by him due the state, to the county treasurer all moneys due the county, and to the authorized officers of the taxing districts the amount due each such district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies, or parties entitled thereto. He shall retain ten percent (10%) of the amount due each taxing unit for his services as a fee. This fee shall be added to the amount of the tax claim and paid by the persons paying the tax claim.

(3) If the person entitled to pay a certificate of delinquency sends a registered letter addressed to the owner of record of the certificate, other than the state, county, or taxing district, and the letter is returned by mail unclaimed, the sender thereof may make payment to the county clerk, who shall make the necessary assignment or release and deposit the money to the account of the owner of record in the nearest bank having its deposits insured with the Federal Deposit Insurance Corporation. The clerk may deduct the sum of fifty cents ($0.50) as a fee for such service. The name of the bank in which the money is deposited shall be noted on the certificate.

(4) If any clerk fails to pay to the person entitled thereto, upon demand, the money received in payment of a certificate of delinquency, he and his sureties shall be liable for the same and twenty percent (20%) interest thereon annually from the time he received it until paid.

(5) Copies of the records provided for in KRS 134.450 and this section, certified by the county clerk, shall be evidence of the facts stated in them in all the courts of this state.

Section 273. KRS 134.500 is amended to read as follows:

(1) (a) Certificates of delinquency shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The five dollar ($5) sheriff's fee, the advertising costs provided in KRS 134.420, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be included in the interest calculation in counties containing cities of the first class or consolidated local government and shall be excluded in other counties, except upon adoption of an ordinance by a county to include in the interest calculation the fees provided for in KRS

134.420, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he or she makes the next regular settlement.

(b) A certificate of delinquency shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The total amount of the certificate of delinquency, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be included in the base for the interest calculation. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) The ***department***[~~cabinet~~] shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the ***department***[~~cabinet~~] shall first offer the collection duties to the county attorney, unless the ***department***[~~cabinet~~] determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the ***department***[~~cabinet~~] on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the ***Department of*** Revenue[~~ Cabinet~~] shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the ***department***[~~cabinet~~] shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the ***department***[~~cabinet~~] may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the ***department***[~~cabinet~~] and performs his or her duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. This fee shall be waived if the certificate of delinquency is paid by the taxpayer only within five (5) days of the sheriff's sale. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the ***department***[~~cabinet~~] shall assume responsibility for the collection process. In the performance of those duties, the ***department***[~~cabinet~~] shall have all the powers, rights, duties, and authority with respect to the

collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the ***department***[~~cabinet~~] by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the ***department***[~~cabinet~~] for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the ***commissioner***[~~secretary~~], and the petition may be sent to the ***department***[~~cabinet~~], which may require revision in instances where it deems revision or amendment necessary. The ***department***[~~cabinet~~] shall advise the county attorney in all actions, and may send him or her special assistance when the ***commissioner***[~~secretary~~] deems assistance necessary. A copy of the judgment shall also be sent to the ***department***[~~cabinet~~]. If the ***department***[~~cabinet~~] sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his or her full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The ***department***[~~cabinet~~] may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the ***department***[~~cabinet~~] to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the ***department***[~~cabinet~~].

(8) The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.

Section 274. KRS 134.505 is amended to read as follows:

Any person while serving as county attorney who was required by law by reason of his office to prosecute an action or to assist the ***commissioner***[~~secretary~~] of revenue in prosecuting an action to enforce a claim of the state, county, school district and any other taxing district to any land which was purchased by such districts at a sheriff's sale or sales for delinquent taxes and who did not institute such action before he relinquished his office or otherwise failed to perform substantially all the duties of his office relative to the claim, shall not be entitled to receive any commission or compensation for any such sale or sales when the redemption costs are paid. Any county clerk or other person authorized to collect funds to satisfy unredeemed land sales shall be liable for any such money distributed as a commission to any former county attorney who is not entitled to it.

Section 275. KRS 134.510 is amended to read as follows:

(1) After the state, county and taxing districts obtain real property as authorized by KRS 134.490, the designated agent of the ***commissioner***[~~secretary~~] of revenue may advertise and sell at public sale any of the lands, and the ***commissioner***[~~secretary~~] may convey the lands by deed to the purchaser. The ***commissioner***[~~secretary~~] shall, within thirty (30) days from receipt of payment, pay to the county and taxing district the amount of the proceeds due each. The ***Department of*** Revenue[~~ Cabinet~~] shall be entitled to an administration fee equal to fifteen percent (15%) of the sale price of the property, which shall be paid into the delinquent tax fund provided for in KRS 134.400.

(2) The sales shall be advertised by a written or printed notice posted at the courthouse door for fifteen (15) days before the date of sale, and by publication pursuant to KRS Chapter 424, and may in addition be advertised by printed handbills posted for fifteen (15) days before the date of sale in three (3) or more conspicuous places in the taxing districts.

(3) Any real property acquired by the state, county and taxing districts pursuant to KRS 134.490 may be redeemed at any time before the ***commissioner***[~~secretary~~] gives a deed to a purchaser, by paying to the county clerk the amount due at the time the property was acquired, plus subsequent costs and interest at the rate of twelve percent (12%) per annum.

Section 276. KRS 134.540 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] has reason to believe that any sale made under the authority of Section 32 of Article VIII of Chapter 22 of the Acts of 1906, or Section 3 of Chapter 43 of the Acts of 1908, or Section 2 or 5 of Chapter 21 of the Acts of the first Extraordinary Session of 1938, is for any reason invalid, the invalidity may be alleged in an action to establish the lien provided for in Chapter 152 of the Acts of 1934. The action shall be brought on the relation of the ***commissioner***[~~secretary~~] of revenue, who shall publish notice on the courthouse door for fourteen (14) days before instituting the action, notifying all delinquents that actions will be instituted unless the delinquent taxes against land subject to such actions are paid at once. If the owner does not redeem the land within ten (10) days after the expiration of the fourteen (14) day period, and the ***commissioner***[~~secretary~~] is required to institute action, the state shall be entitled to a fee equal to fifteen percent (15%) of the amount of the taxes, penalties and interest, which shall be paid into the delinquent tax fund provided under KRS 134.400, to be used by the ***Department of*** Revenue[~~ Cabinet~~] to cover the expenses of filing and administering such actions. If the property is redeemed after action is instituted, the fee shall become a part of the redemption price. The ***commissioner***[~~secretary~~] may, if he deems necessary, institute action without giving the notice provided in this section, in which event the fifteen percent (15%) fee shall not apply.

(2) The county attorney shall assist the ***Department of*** Revenue[~~ Cabinet~~] in filing and prosecuting the actions. For these services he shall be entitled to twenty percent (20%) of the taxes, penalties and interest. If he fails or refuses to assist in filing and prosecuting the actions, he shall not be entitled to this fee.

(3) An action shall not be instituted on behalf of the state to establish the lien provided for in Chapter 152 of the Acts of 1934 until after the expiration of the time that must expire before action to recover possession can be instituted.

Section 277. KRS 134.580 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Agency" means the agency of state government which administers the tax to be refunded or credited.

(b) "Overpayment" or "payment where no tax was due" means the tax liability under the terms of the applicable statute without reference to the constitutionality of the statute.

(2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds or credits, to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky Board of Tax Appeals or courts may direct.

(3) Refunds or credits shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(4) Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the ***department***[~~cabinet~~], the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund or credit to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund or credit would be greater than the amount that should be refunded or credited.

(5) This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.

(6) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

Section 278. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the ***Department of*** Revenue[~~ Cabinet~~], for collecting state ad valorem taxes on motor vehicles, a commission of four percent (4%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer, for collecting county and special district ad valorem taxes on motor vehicles, a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) (a) For the convenience and benefit of the Commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner, as defined in KRS 186.010(7)(a) and (c), of each motor vehicle no later than forty-five (45) days prior to the ad valorem tax and registration renewal due date in each calendar year.

(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner as of January 1 of that year.

(c) When ad valorem taxes on a vehicle become delinquent for sixty (60) days, as defined by KRS 134.810, a second notice shall be sent within ten (10) working days to the January 1 owner of record. The notice shall inform the delinquent owner of the lien provisions provided by KRS 134.810 on all vehicles owned or acquired by the owner of the vehicle at the time the tax liability arose.

(d) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Nonreceipt of the notices required herein shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery.

Section 279. KRS 134.815 is amended to read as follows:

(1) The county clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county government, school, and special taxing districts all ad valorem taxes on motor vehicles collected by him for the preceding month, less the collection fee of the county clerk, which shall be deducted before payment to the depository. The county clerk shall be required to deposit state collections in a manner consistent with procedures established by the ***department***[~~cabinet~~] for the prompt payment to the state of other state tax moneys collected by the county clerk.

(2) Any county clerk who fails to pay over any taxes collected by him on motor vehicles as required by subsection (1) of this section shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the legal rate per annum of such taxes.

(3) The county clerk may be granted an extension, not to exceed fifteen (15) days, for filing the monthly report to each district required by this section.

(4) In the event a motor vehicle is registered in a county other than that in which the vehicle had a taxable situs as of the most recent assessment date, the county clerk in the new county of registration shall be charged with collecting the ad valorem taxes due for the state, county, city, urban-county government, school and special tax districts in which the vehicle had situs. The county clerk making such collections shall receive commissions on collections as set out for other collections on motor vehicles.

(5) All moneys collected under this section by a county clerk on motor vehicles which had a taxable situs in another county shall be reported and deposited with the state, after he has deducted the appropriate commissions due from these collections, and such collections shall be distributed to the proper tax district.

(6) The ***department***[~~cabinet~~] shall provide procedures governing receipt and disbursement of all moneys collected under subsections (4) and (5) of this section.

Section 280. KRS 134.825 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall be responsible for payment of all expenses related to the development and implementation of computer and administrative systems necessary to carry out the provisions of KRS 134.805, 134.810 and 186A.145 and, further, shall reimburse each state agency involved for all ongoing operational costs, including the calculation, preparation, and mailing of notices of ad valorem property tax due on motor vehicles, incurred by each such agency in administering the provisions of KRS 134.805, 134.810 and 186A.145.

Section 281. KRS 134.990 is amended to read as follows:

(1) Any sheriff who violates subsection (2) of KRS 134.140 shall be fined one hundred dollars ($100) for each offense.

(2) Any person who violates the provisions of KRS 134.150 shall, upon indictment and conviction in the county in which the act was done, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be removed from office.

(3) Any sheriff who violates subsection (3) of KRS 134.170 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(4) Any sheriff who violates subsection (2) of KRS 134.200 shall be fined not less than five hundred dollars ($500) for each offense.

(5) Any outgoing sheriff who fails for ten (10) days to comply with the provisions of KRS 134.215 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), and be liable on his bond for any default.

(6) Any sheriff who fails to report as required in KRS 134.300 shall be liable to indictment in the county of his residence, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(7) Any sheriff who fails to report as provided in KRS 134.320 shall be liable to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Any person who willfully fails to comply with any rule or regulation promulgated under subsection (4) of KRS 134.380 shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(9) Any sheriff who violates subsection (5) of KRS 134.430 shall be fined one hundred dollars ($100) and be liable on his official bond for the damages sustained by any person aggrieved.

(10) Any county attorney who fails to prepare, and any sheriff who fails to serve, the notice provided for in subsection (2) of KRS 134.500 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(11) Any sheriff who intentionally fails to keep his books in an intelligible manner and according to the form prescribed by the ***Department of*** Revenue[~~ Cabinet~~], or to make the entries required by law, shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) for each offense.

(12) Any person who fails to do an act required, or does an act forbidden, by any provision of this chapter for which no other penalty is provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

Section 282. KRS 135.040 is amended to read as follows:

(1) On the return of "no property found" on an execution issued upon a judgment in favor of the state, the ***Department of*** Revenue[~~ Cabinet~~] may institute equitable proceedings in the Franklin Circuit Court or any other court of competent jurisdiction, in the name of the state and on the relation of the ***commissioner***[~~secretary~~] of revenue. The choses in action or other equitable estate of the delinquent shall be subjected to the payment of the amount due on any such execution.

(2) On the return to the fiscal court of any tax bill as uncollectible, a like suit may be instituted in the name of the state on the relation of the ***commissioner***[~~secretary~~] of revenue in any court of competent jurisdiction, and the choses in action or other equitable estate of the delinquent may be subjected to the amount due on any such tax bill. In such proceedings attachment

may issue and other proceedings may be taken as are authorized on the return of "no property found" on an execution in favor of individuals.

(3) The county attorneys of the respective counties shall assist the ***Department of*** Revenue[~~ Cabinet~~] in prosecuting the actions mentioned in this section.

(4) No action shall be maintained under the provisions of subsection (1) of this section when the last execution issued has been returned "no property found" more than ten (10) years before the institution of the action, nor shall an action be maintained on the uncollectible tax bill under the provisions of subsection (2) of this section more than five (5) years after the date of the return by the sheriff or collector.

(5) Every person against whom an execution has been returned "no property found" and upon which an equitable action is instituted, as provided in subsection (1) of this section, shall be liable for a penalty of twenty percent (20%) of the amount due on the execution. The penalty may be recovered in the action, with the amount due on the execution. The penalty shall go to the delinquent tax fund provided for under KRS 134.400, unless the county attorney assists in the prosecution, in which case one-half (1/2) shall go to him.

Section 283. KRS 135.050 is amended to read as follows:

(1) The ***commissioner***[~~secretary~~] of revenue shall prosecute diligently the collection of all license fees, omitted license, inheritance, estate, income, excise or franchise taxes, judgments or other moneys, claims or demands due the state from any person.

(2) The ***Department of*** Revenue[~~ Cabinet~~] may institute legal proceedings to ascertain the amount of tax due under any statute imposing a license, excise or income tax in favor of the state, and to enforce the collection of the amount due and the penalties and interest thereon, and, in the case of a license or excise tax, to enjoin the operation of the business of the delinquent until the tax is paid.

(3) The ***Department of*** Revenue[~~ Cabinet~~] may, at or after the commencement of an action under subsection (2) of this section to collect the amount of license, excise or income tax due and the penalties and interest thereon, have an attachment against the property of the person liable for the tax or a garnishment of his debtors, without the execution of a bond.

Section 284. KRS 135.060 is amended to read as follows:

(1) Employees of the ***Department of*** Revenue[~~ Cabinet~~] shall, when directed by the ***commissioner***[~~secretary~~], institute actions in the name of the state, and in the name of any county, school or other taxing district, on relation of the ***commissioner***[~~secretary~~], against any delinquent state, county or district officer or any person to recover taxes or any other money due the state or any county, school or other taxing district.

(2) Employees of the ***Department of*** Revenue[~~ Cabinet~~] before instituting or causing to be instituted any action that the ***commissioner***[~~secretary~~] is authorized by law to institute, shall file a copy of same with the ***commissioner***[~~secretary~~], with a verified statement of the facts upon which it is based. No action shall be instituted or caused to be instituted by an employee until it is approved and authorized by the ***commissioner***[~~secretary~~].

(3) In all actions brought under subsection (1) of this section in which a judgment is recovered, the party in default shall, in addition to the amount found to be due the state or any county, school or other taxing district, be adjudged to pay a penalty of twenty percent (20%) on the amount due.

Section 285. KRS 135.080 is amended to read as follows:

(1) When an action is brought in the Franklin Circuit Court against a sheriff or clerk, or against the sureties on his official bond, or against his heirs, devisees or representatives, or against any other person required to pay money into the State Treasury or to do any other act required by law to be done in connection with the payment of money into the State Treasury after it has been collected, the ***Department of*** Revenue[~~ Cabinet~~] shall, twenty (20) days before the trial, mail to the defendant in the action, directed to him at the courthouse of his county, a notice in writing stating the amount judgment will be asked for and the time the court will be held. The ***department***[~~cabinet~~] shall file a copy of this notice, with the name of the person to whom sent and the time when and the place where sent, with the clerk of the court, to be filed by him and kept with the papers in the action.

(2) The court, without further notice to the parties, shall proceed with the action. The ***department***[~~cabinet~~] shall file with the clerk of the court a memorandum of the names of the parties, the amount due from each defaulter against whom judgment is demanded, and a copy of the bond if any. The clerk shall docket the action in the order in which the names stand on the memorandum.

(3) Judgments, when given against the defendants in the cases referred to in this section, shall be for the principal due with interest at the rate of ten percent (10%) per annum from the time the amount was due until paid.

Section 286. KRS 135.090 is amended to read as follows:

If any of the defendants in an action brought under KRS 135.080 shall, upon oath, deny the execution of the bonds or instruments whereby they are sought to be made liable, a jury, if required, shall be impaneled to try the facts. All other facts may be tried by the court. Nothing but a receipt from the State Treasurer for the payment of the taxes or money claimed shall be admitted on the trial, except orders of the court and receipts in pursuance thereof, the records of the ***Department of*** Revenue[~~ Cabinet~~] and the State Treasurer, and the delinquent list. No tender of payment nor any offset shall be pleaded or given in evidence.

Section 287. KRS 135.100 is amended to read as follows:

(1) Judgments in the name of the state or county against sheriffs and other public collectors, their sureties, or their heirs, devisees or personal representatives, or any of them, shall bind the estate, legal or equitable, of all of the defendants to the judgments from the commencement of the action until satisfied. No execution thereon shall be stayed by replevin or sale on credit, but in all such cases the estate taken in execution shall be sold for money, except that the ***Department of*** Revenue[~~ Cabinet~~] may, with the consent of the Attorney General, indorse the right to replevy on the execution where the tax is payable to the ***department***[~~cabinet~~], and a like privilege is given to the sheriff, with the consent of the county attorney, when the taxes are payable to the sheriff.

(2) Any officer who makes a false return on such execution shall be subjected to the payment of the whole amount of the execution and costs, in addition to the penalty provided by subsection (3) of KRS 135.990.

(3) No person shall attempt, by any fraudulent execution, conveyance, encumbrance or otherwise, to stop or injure the sale of the estate under the execution.

Section 288. KRS 135.120 is amended to read as follows:

When the property of the defendant in execution, upon a judgment against a defaulting public officer, is encumbered by a previous bona fide mortgage, deed of trust or other encumbrance or prior lien, the officer shall, if no other property is found upon which to levy the execution, levy it upon the encumbered property and return the same. He shall make return of all the facts known to him, giving the date and consideration of the instrument creating the lien, to whom made, when recorded, the evidences of any prior lien, and the names of the parties who claim the same. Proceedings may be instituted by the sheriff or the ***Department of*** Revenue[~~ Cabinet~~], in the name of the state, in the county where the property is located, to have the property sold, the claims and demands, if just, satisfied, all encumbrances removed, and the proceeds of the sale of the property rightfully applied.

Section 289. KRS 135.130 is amended to read as follows:

(1) If return is made on an execution against a sheriff or other public defaulter to the state and his sureties that there was no sale of personal property for the want of bidders, the ***Department of*** Revenue[~~ Cabinet~~] may direct the property levied upon to be removed from county to county for sale, as often as may be necessary, the cost of removal to be paid out of the sale of the estate as other costs. The officer who levied the execution may sell the property in any county to which it is so removed. If real property is levied upon, the place of sale may be changed to another county, and the officer may there sell and convey the property as in the county where the levy was made.

(2) The state may have executions in the hands of collecting officers in any number of counties at the same time.

Section 290. KRS 136.030 is amended to read as follows:

(1) Every corporation organized under the laws of this state, or doing business in this state, and domestic life insurance companies, shall by February 15, of each year make a true and correct report to the ***Department of*** Revenue[~~ Cabinet~~] signed by its president, secretary, treasurer, or other chief officer, giving the names and addresses of residents of this state who hold its outstanding bonds as of January 1 previous thereto, and also the transfer of any of its bonds by residents of this state to nonresidents within thirty (30) days previous to January 1.

(2) Every broker-dealer or his agent doing business in this state pursuant to KRS Chapter 292, shall on or before March 1, each year, as of the preceding January 1, furnish the ***Department of*** Revenue[~~ Cabinet~~] the following information:

  (a) Name and address of all Kentucky residents whose stocks, bonds, or other securities, excluding stocks and mutual funds, are held in a name other than that of the actual owner and which are in the possession of or subject to the control of such broker-dealer or his agent, for the benefit of such actual owner. This shall be construed to include all accounts fully paid;

  (b) Name of company by whom bonds or other securities were issued;

  (c) Interest rate, maturity date, par value, and number of bonds held, and sufficient information to measure the quantity of other securities; and

  (d) Market value as of the previous January 1.

Section 291. KRS 136.050 is amended to read as follows:

(1) Except where otherwise specially provided, all corporations required to make reports to the ***Department of*** Revenue[~~ Cabinet~~] shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.

(2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school, and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school, and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky Board of Tax Appeals acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following April 30 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the tax interest rate as defined in KRS 131.010(6).

Section 292. KRS 136.070 is amended to read as follows:

(1) Every corporation organized under the laws of this state, every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation in this state, except financial institutions as defined in KRS 136.500, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, those corporations exempted by Section 501 of the Internal Revenue Code, any property or facility which has been certified as an alcohol production facility as defined in KRS 247.910, any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390, and any other religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit, shall pay to the state an annual license tax of two dollars and ten cents ($2.10) on each one thousand dollars ($1,000) of the capital employed in the business as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section.

(2) (a) The term "capital" as used in this section means capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed moneys or any other accounts representing additional capital used and employed in the business. Accounts properly defined as "capital" in this section shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year;

(b) "Capital employed," in the case of corporations having property or payroll only in this state, means "capital" as defined above;

(c) "Capital employed," in the case of corporations having property or payroll both within and without this state means "capital" as defined above and as apportioned under subsection (3) of this section;

(d) Property means either real property or tangible personal property which is either owned or leased. Payroll means compensation, paid to one (1) or more individuals, as described in subsection (3) of this section. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction.

(3) The total capital, as determined under subsection (2) of this section, shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor plus the payroll factor, plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used;

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor:

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero, such property shall be valued by the ***department***[~~cabinet~~] under regulations promulgated by the ***department***[~~cabinet~~]. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals, provided that such rental and such subrentals are reasonable. If the ***department***[~~cabinet~~] determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the ***department***[~~cabinet~~] may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer; and

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the ***department***[~~cabinet~~] may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property;

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the

place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state;

(d) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale;

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; or

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the taxpayer's capital in this state, the taxpayer may petition for or the ***department***[~~cabinet~~] may require:

(a) The exclusion of any one (1) or more of the factors;

(b) The inclusion of one (1) or more additional factors which will fairly measure the taxpayer's capital in this state; or

(c) The employment of any other method to produce an equitable apportionment of the taxpayer's capital.

(5) No corporation required to pay an annual license tax under this section shall pay less than thirty dollars ($30).

(6) Every corporation with a gross income of not more than five hundred thousand dollars ($500,000) shall be entitled to a credit equivalent to one dollar and forty cents ($1.40) per one thousand dollars ($1,000) of the initial three hundred and fifty thousand dollars ($350,000) of capital employed in the business, as computed under the provisions of KRS 136.070(2) and (3).

Section 293. KRS 136.0704 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.26-010 and subject to license tax under KRS 136.070;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090(1)(c)2.

(2) An approved company that entered into a revitalization agreement prior to July 13, 2004, shall:

(a) Compute the company's total license tax due as provided by KRS 136.070; and

(b) Compute the license tax due excluding the capital attributable to an economic revitalization project.

(3) The tax credit shall be the amount by which the tax computed under subsection (2)(a) of this section exceeds the tax computed under subsection (2)(b) of this section; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) The capital attributable to an economic revitalization project shall be determined by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(5) For an approved company that enters into a revitalization agreement after July 13, 2004, the tax credit shall be negotiated pursuant to KRS 154.26-090, but shall not exceed one hundred percent (100%) of the computed license tax attributable to the location of the economic revitalization project. In no case shall the tax credit exceed the limits set forth in KRS 154.26-090.

(6) The license tax attributable to a revitalization project shall be determined by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(7) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 294. KRS 136.073 is amended to read as follows:

(1) Every open-end registered investment company organized under the laws of this state and registered under the Investment Company Act of 1940 shall on or before the fifteenth day of the fourth month following the close of each fiscal year, if the company operates on a fiscal year basis or calendar year, file a report on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and pay directly to the State Treasury a tax of two dollars and ten cents ($2.10) for each one thousand dollars ($1,000) of "average net capital" as computed under subsections (2) and (3) of this section.

(2) The term "net capital" as used in this section means capital stock, surplus, borrowed moneys or any other accounts representing capital of the company less the amount of such capital which by said company is invested in Kentucky municipal securities which are obligations issued by the State of Kentucky, its political subdivisions, and the districts,

authorities, agencies and instrumentalities of the state and its political subdivisions, the interest on which is exempt from federal and Kentucky income tax.

(3) The term "average net capital" as used in this section means the average of the net capital of the company as shown on financial statements of the company as of the first and last days of the fiscal or calendar year of the company, whichever is applicable.

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall examine and audit each report as soon as practicable after each report is received. Failure to make reports and pay taxes as provided in this section shall subject the company to the same penalties imposed for such failure on the part of other corporations.

Section 295. KRS 136.076 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the taxpayer, the additional tax shall be assessed and a notice of assessment mailed to the taxpayer by the ***department***[~~cabinet~~] within four (4) years from the date the return was filed, except that in the case of a failure to file a return, or of a fraudulent return, the additional tax may be assessed at any time. The time provided in this section may be extended by agreement between the taxpayer and the ***department***[~~cabinet~~].

(2) For the purpose of subsection (1) of this section, a return filed before the last day prescribed by law for filing the return thereof shall be considered as filed on the last day. For taxable years beginning after December 31, 1993, any extension of time granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

Section 296. KRS 136.090 is amended to read as follows:

(1) Corporations liable to taxation under KRS 136.070 shall file with the ***Department of*** Revenue[~~ Cabinet~~] each year, on forms prepared by the ***department***[~~cabinet~~], a return signed by the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. This report shall give the name of the corporation; the name of the state or government under the laws of which it is incorporated; the date of incorporation; the place of its principal office in and out of this state; the name and address of its president and secretary; the name and address of its authorized agent or attorney upon whom process may be executed in this state; the name and address of the officer or agent in charge of its business in this state; and the nature and kind of business in which it is engaged.

(2) The report shall also give the total value of all the property owned and used by the corporation; the value of the property owned and used by it in this state; the aggregate amount of business transacted by it during the preceding calendar year or fiscal year; the amount of such business transacted in this state; and such other facts as the ***department***[~~cabinet~~] requires.

Section 297. KRS 136.100 is amended to read as follows:

(1) If the corporation operates on a calendar year basis, the reports required under KRS 136.090 shall be filed on or before April 15 in each year. If the corporation operates on a fiscal year basis, the reports shall be filed on or before the fifteenth day of the fourth month following the close of each fiscal year. The reports shall cover operations for the preceding calendar or fiscal year, as the case may be. Domestic corporations hereafter incorporated, and foreign corporations hereafter becoming the owners of property or transacting business in this state, shall make their reports to the ***Department of*** Revenue[~~ Cabinet~~] on or before the first filing date succeeding their incorporation or succeeding their becoming the owners of property or transacting business in this state, and shall in all respects be subject to the provisions of KRS 136.070 to 136.100 the same as corporations already in existence.

(2) A corporation may change its reporting period from a calendar year to a fiscal year, or from a fiscal year to a calendar year, by securing written permission from the ***department***[~~cabinet~~]. If a corporation so changes its basis of reporting, the first report filed on the new filing date shall cover operations for the period between the close of the old accounting period and the close of the new accounting period. The assessment of value shall be computed in the same manner as on any other return, but the tax due shall be computed on that proportionate part of the assessment that the period between the close of the old accounting period and the close of the new accounting period bears to the entire twelve (12) month period.

(3) In any case where two (2) or more corporations merge, consolidate or otherwise combine into a single corporation after the close of the taxable year, but before the beginning of the succeeding taxable year, all factors used to determine the corporation license tax assessment shall be computed on the basis of the consolidated accounting records of such corporations.

Section 298. KRS 136.120 is amended to read as follows:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company, cable television company, municipal solid waste disposal facility, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling, railroad car line company, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car, and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking

companies, and taxicab companies, shall annually pay a tax on its operating property to the state and to the extent the property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by the ***department***[~~cabinet~~], and shall allocate the assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the ***department***[~~cabinet~~] pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of the assessment date. In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the ***department***[~~cabinet~~] shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the ***department***[~~cabinet~~] under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

Section 299. KRS 136.130 is amended to read as follows:

(1) Each corporation included in KRS 136.120(1) shall annually, between December 31, and April 30, following, make and deliver to the ***Department of*** Revenue[~~ Cabinet~~] a report in such form as the ***department***[~~cabinet~~] may prescribe, showing such of the following facts as may be requested by the ***department***[~~cabinet~~]: The name and principal place of business of the corporation; the kind of business engaged in; the amount of capital stock, preferred and common, and the number of shares of each; the amount of stock paid up; the par and fair cash value of the stock; the highest price at which the stock was sold at a bona fide sale within twelve (12) months next before December 31 of the year for which the report is required to be made; the amount of surplus funds and undivided profits; the total amount of indebtedness as principal; the cost and year acquired of all operating property owned, operated, or leased, including property under construction, property held for future use, and the depreciation attributable thereto as of December 31, the cost and year acquired of all nonoperating tangible property and the depreciation attributable thereto; the cost and market value as of December 31 of all intangible property; the value of all other assets; the operating and nonoperating revenues, the net utility operating income before and after depreciation and before and after income taxes, the net income from operations, the net income including income from investments, and income from all other sources for twelve (12) months next preceding December 31 of the year for which the report is required; the amount and kind of operating property in this state, and where situated in each county, city, and taxing district, assessed or liable to assessment in this state, and the fair cash value thereof, the length and description of all the lines operated, owned, or leased in this state and in each county, city, and taxing district; and such other facts as the ***department***[~~cabinet~~] may require.

(2) The report shall cover the period of twelve (12) months ending December 31. The ***department***[~~cabinet~~] may change the date of the reports to conform to any change in date established by federal regulations.

(3) If any corporation is in the hands or under the control of a receiver or other person, by order of a court, the receiver or other person shall make the reports required by this section and by KRS 136.140.

(4) All public service corporations included in KRS 136.120 shall file with the report required by subsection (1) of this section a copy of all reports to their stockholders and a complete copy of their report to the Kentucky regulating authority for the year ending December 31.

(5) The ***Department of*** Revenue[~~ Cabinet~~] may grant an extension of thirty (30) days to file the public service property tax return when, in its judgment, good cause exists. The ***department***[~~cabinet~~] shall keep a record of every extension and the taxpayer shall attach a copy of the approved extension to his return when filed.

(6) A taxpayer may be granted a thirty (30) day extension for filing the public service company property tax return if it requests the extension before the due date of the return and includes with the extension request a report of any increases or decreases in property of fifty thousand dollars ($50,000) or more in any taxing district.

Section 300. KRS 136.132 is amended to read as follows:

(1) Each corporation included in KRS 136.120(1) shall annually, when filing the report required by KRS 136.130, provide to the ***Department of*** Revenue[~~ Cabinet~~] a listing of all motor vehicles and trailers operated, owned, or leased by it which are subject to registration in Kentucky with the latest registration or certificate number issued to such motor vehicle or trailer and the make, model and year of each vehicle.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall, when valuing the property of corporations or companies assessable by it, value the vehicles at no less than the value used by the property valuation administrator.

(3) In certifying the assessment of property of public service companies subject to local taxation, the ***department***[~~cabinet~~] shall separately certify the amount of the assessment representing the valuation of motor vehicles and trailers or an apportionment thereof.

Section 301. KRS 136.140 is amended to read as follows:

(1) If a public service corporation, foreign or domestic, operates and conducts its business in other states as well as in this state, the report required by KRS 136.130 shall show the following additional facts: the cost and year acquired of the operating property operated, owned, or leased, including property under construction, property held for future use, and depreciation attributable thereto for the property in this state as of December 31; and such other facts as the ***department***[~~cabinet~~] may require.

(2) All public service corporations included in KRS 136.120 shall file with the report required by KRS 136.130 and this section a copy of all reports to their stockholders and a complete copy of their report to the federal regulating agency if their operations are interstate.

Section 302. KRS 136.150 is amended to read as follows:

If any corporation fails to report as required by KRS 136.130 and 136.140 on or before April 30 of each year, or May 30 if the ***Department of*** Revenue[~~ Cabinet~~] has granted the corporation an extension, the ***Department of*** Revenue[~~ Cabinet~~] shall ascertain the required facts and values in such manner and by such means as it deems proper, at the cost of the corporation failing to make the report.

Section 303. KRS 136.160 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall determine the fair cash value of the operating property of a domestic public service corporation as a unit. The fair cash value of the operating property shall be equalized.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall determine the fair cash value of the operating property of a foreign public service corporation or a domestic public service corporation with property or routes in Kentucky and outside Kentucky as a unit according to subsection (1). The fair cash value of the operating property everywhere valued as a unit shall be apportioned to Kentucky based on the average of the property factor and the business factor. The fair cash value of the operating property in Kentucky shall be equalized.

(a) The property factor shall fairly reflect the amount of operating property operated, owned, or leased in Kentucky compared to the total amount of operating property operated, owned, or leased everywhere. An allocable portion of the rolling stock, aircraft, and watercraft of a common carrier shall be included in the operating property, operated, owned, or leased in Kentucky. This factor may be a single factor or an average of several factors.

(b) The business factor shall fairly reflect the utilization of the operating property operated, owned, or leased in Kentucky compared to the utilization of the operating property operated, owned, or leased everywhere. This factor may be a single factor or an average of several factors.

(3) The nonoperating tangible and nonoperating intangible property of public service corporations whose operating property is valued according to either subsection (1) or (2) shall be valued by the ***Department of*** Revenue[~~ Cabinet~~] in the same manner and according to the same standards as if this property were valued by the property valuation administrator in the county where the property has a taxable situs.

Section 304. KRS 136.170 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall allocate the assessed value of the operating property in this state among the counties, cities, and other taxing districts. The location of operating property and the proportion which the length of line or route operated in such taxing district bears to the total length of lines or route operated in this state shall be considered in this allocation and such other reasonable evidence of value as the ***Department of*** Revenue[~~ Cabinet~~] may by regulations prescribe; provided, however, that the assessed value of nonoperating tangible property shall be allocated to the county, city, or other taxing district where the property is situated.

Section 305. KRS 136.180 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall, immediately after fixing the assessed value of the operating property and other property of a public service corporation for taxation, notify the corporation of the valuation and the amount of assessment for state and local purposes. When the valuation has been finally determined, the ***department***[~~cabinet~~] shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount of property liable for county, city, or district tax.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall compute annually a multiplier for use in establishing the local tax rate for the operating property of railroads or railway companies that operate solely within the Commonwealth. The applicable local

tax rates on the operating property shall be adjusted by the multiplier. The multiplier shall be calculated by dividing the statewide locally taxable business tangible personal property by the total statewide business tangible personal property.

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall annually calculate an aggregate local rate for each local taxing district to be used in determining local taxes to be collected for railroad carlines. The rate shall be the statewide tangible tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment. Effective January 1, 1994, state and local taxes on railroad carline property shall become due forty-five (45) days from the date of notice and shall be collected directly by the ***Department of*** Revenue[~~ Cabinet~~]. The local taxes collected by the ***Department of*** Revenue[~~ Cabinet~~] shall be distributed to each local taxing district levying a tax on railroad carlines based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the ***Department of*** Revenue[~~ Cabinet~~] by any local taxing district under the provisions of subsection (4) of this section shall be deducted.

(5) The certification of valuation shall be filed by each county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value certified by the ***department***[~~cabinet~~] shall pay an annual fee to the ***department***[~~cabinet~~] which represents an allocation of ***department***[~~cabinet~~] operating and overhead expenses incurred in generating the valuations. This fee shall be determined by the ***department***[~~cabinet~~] and shall apply to valuations for tax periods beginning on or after December 31, 1981.

Section 306. KRS 136.181 is amended to read as follows:

Boats, tugs, barges, and other watercraft of any nonresident person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be valued by the ***Department of*** Revenue[~~ Cabinet~~] for purposes of taxation and shall be assessed as of January 1 each year by the ***Department of*** Revenue[~~ Cabinet~~]; and the ***department***[~~cabinet~~] shall fairly divide, allocate, and certify such assessments to each county, city, town, or other taxing district within this state, within or through which such route or system is operated, the division, allocation, and certification to be determined in the following manner:

(1) The proportion of the value of the property which the length of the lines or route operated in this state bears to the total length of lines or route operated in this state and elsewhere, shall be considered in fixing the value of the property for taxation in this state. Any other reasonable evidence of value shall be considered in fixing the value, but such evidence must be prescribed by ***department***[~~cabinet~~] regulations;

(2) After ascertaining the portion of the system valuation of such property attributable to this state, the ***Department of*** Revenue[~~ Cabinet~~] shall allocate the value of the property among the counties, cities, towns, and other taxing districts. The proportion which the length of line or route operated in that jurisdiction or taxing district bears to the total length of lines or route operated in this state shall be considered in this allocation and such other reasonable evidence of value as the ***Department of*** Revenue[~~ Cabinet~~] may by regulations prescribe.

Section 307. KRS 136.182 is amended to read as follows:

On or before March 1, 1955, and each year thereafter, each nonresident person, corporation, partnership or other business association owning or operating boats, tugs, barges, or other watercraft whose route or system is partly within this state and partly within another state or states, shall on forms provided by the ***Department of*** Revenue[~~ Cabinet~~] provide the ***Department of*** Revenue[~~ Cabinet~~] with a detailed description of all such property as well as a detailed description of the entire route or system traversed and such other information as the ***Department of*** Revenue[~~ Cabinet~~] may by regulation prescribe.

Section 308. KRS 136.183 is amended to read as follows:

The taxes on the above property shall become due at the same time and shall be subject to the same discount and penalties as provided by KRS 134.020, and shall be collected in the same manner as taxes on other tangible property; except that the state tax on such property shall be collected directly by the ***Department of*** Revenue[~~ Cabinet~~].

Section 309. KRS 136.184 is amended to read as follows:

Any taxpayer who has been assessed by the ***Department of*** Revenue[~~ Cabinet~~] in the manner outlined above shall have thirty (30) days from the date of the ***department's***[~~cabinet's~~] notice of the tentative assessment in which to protest and ask for a change thereof in the manner provided by KRS 131.110.

Section 310. KRS 136.186 is amended to read as follows:

When the ***Department of*** Revenue[~~ Cabinet~~] has made a final determination as to the valuation of any such property owned or operated by such nonresident person, corporation, partnership or other business association, it shall immediately certify the amount thereof to the county clerk of each county in which any such property is liable for taxation. The certification shall be filed by each county clerk in his office and the county clerk shall certify to the proper collecting officer of the county, city, town, or taxing district for collection.

Section 311. KRS 136.1873 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 132.487, trucks, trailers, tractors, semitrailers, and buses of any person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be assessed by the ***Department of*** Revenue[~~ Cabinet~~] for purposes of taxation as of

January 1 each year.

(2) The proportion of miles operated in this state compared to the total miles operated everywhere shall be considered in fixing the value of the property for taxation. Other reasonable evidence shall be considered in fixing the value. However, pick-up and delivery vehicles operating from a terminal within this state or vehicles which do not leave this state in the normal course of business shall not be valued on an apportioned basis.

Section 312. KRS 136.1875 is amended to read as follows:

On or before April 15, 1991, and each year thereafter, each person, corporation, partnership, or other business association owning or operating trucks, tractors, trailers, semitrailers, and buses whose route or system is partly within this state and partly within another state or states, shall on forms provided by the ***Department of*** Revenue[~~ Cabinet~~] provide the ***department***[~~cabinet~~] with a detailed description of all its vehicles operating within this state along with the necessary mileage data to be used in apportioning the value.

Section 313. KRS 136.1877 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the ***department***[~~cabinet~~] in the manner outlined in KRS 136.1873 shall have forty-five (45) days from the date of the ***department's***[~~cabinet's~~] notice of the tentative assessment to protest as provided by KRS 131.110.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(3) The state and local taxes on the property are due forty-five (45) days from the date of notice and shall be collected directly by the ***Department of*** Revenue[~~ Cabinet~~].

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.

(5) The local taxes collected by the ***Department of*** Revenue[~~ Cabinet~~] shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the ***Department of*** Revenue[~~ Cabinet~~] by any local taxing district under the provisions of KRS 136.180(5) shall be deducted.

Section 314. KRS 136.190 is amended to read as follows:

(1) The superintendent of schools in each district in which any individual, group of individuals or corporation, operates public utility or other franchise taxpaying property assessed under KRS 136.120 shall, on or before the first day of January, 1957, furnish to the county clerk of the county in which the district is situated, to each franchise taxpayer within the district, and to the ***Department of*** Revenue[~~ Cabinet~~], the boundary of his school district. The superintendent of schools in each district in which any franchise-paying corporation, individual, or group of individuals operates shall, on or before the first day of January, 1958, and each year thereafter, furnish to the county clerk, to each franchise taxpayer within the district, and to the ***Department of*** Revenue[~~ Cabinet~~], any changes made in the boundary of his school district during the immediately preceding twelve (12) months.

(2) The engineer of cities of the first class and the city clerk of cities of the second, third, fourth, fifth, and sixth classes shall notify the county clerk, each franchise taxpayer within the city, and the ***Department of*** Revenue[~~ Cabinet~~] of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

(3) The responsible governing official or the chairman of the governing body of any taxing district other than the county, school district, or city shall notify the county clerk, each franchise taxpayer within the district, and the ***Department of*** Revenue[~~ Cabinet~~] of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

Section 315. KRS 136.290 is amended to read as follows:

(1) Every federally or state chartered savings and loan association, savings bank, and other similar institutions operating solely in Kentucky shall, during January of each year, file with the ***Department of*** Revenue[~~ Cabinet~~] a report containing such information and in such form as the ***department***[~~cabinet~~] may require.

(2) The ***department***[~~cabinet~~] shall fix the total value, as of January 1 of each year, of the capital of each financial institution included in subsection (1) of this section. Capital shall include certificates of deposit, savings accounts, demand deposits, undivided profits, surplus, and general reserves, excepting the share of borrowing members where the amount borrowed equals or exceeds the amount paid in by those members. For Agricultural Credit Associations chartered by the Farm Credit Administration, capital shall be computed by deducting the book value of the association's investment in any other wholly owned institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or

136.310 or that is exempt from state taxation by federal law. The ***department***[~~cabinet~~] shall immediately notify each institution of the value so fixed.

Section 316. KRS 136.310 is amended to read as follows:

(1) Every federally or state chartered savings and loan association, savings bank, and other similar institution authorized to transact business in this state, with property and payroll within and without this state, shall, during January of each year, file with the ***Department of*** Revenue[~~ Cabinet~~] a report containing information and in such form as the ***department***[~~cabinet~~] may require.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall fix the fair cash value, as of January 1 of each year, of the capital attributable to Kentucky in each financial institution included in subsection (1) of this section. The methodology employed by the ***department***[~~cabinet~~] shall be a three (3) step process as follows:

(a) The total value of deposits maintained in Kentucky less any amounts where the amount borrowed equals or exceeds the amount paid in by those members.

(b) The Kentucky apportioned value of capital shall include undivided profits, surplus, general reserves, and paid-up stock. For Agricultural Credit Associations chartered by the Farm Credit Administration, capital shall be computed by deducting the book value of the association's investment in any other wholly owned institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or this section or that is exempt from state taxation by federal law. The Kentucky value of capital shall be determined by a fraction, the numerator of which is the receipts factor plus the outstanding loan balance factor plus the payroll factor, and the denominator of which is three (3).

(c) The values determined in steps (a) and (b) of this subsection shall be added together to determine total Kentucky capital and then reduced by the influence of ownership in tax-exempt United States obligations to determine Kentucky taxable capital. The influence of tax-exempt United States obligations is to be determined from the reports of condition filed with the applicable supervisory agency as follows: the average amount of tax-exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by total Kentucky capital. The ***department***[~~cabinet~~] shall immediately notify each institution of the value so fixed.

(3) The receipts factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is all receipts derived from loans and other sources negotiated through offices or derived from customers in Kentucky, and the denominator of which is total business receipts for the preceding calendar year.

(4) The outstanding loan balance factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is the average balance of outstanding loans negotiated from offices or made to customers in Kentucky. The denominator is the average balance of all outstanding loans. The average outstanding loan balance is determined by adding the outstanding loan balance at the beginning of the preceding calendar year to the outstanding loan balance at the end of the preceding calendar year and dividing by two (2). However, if the yearly beginning balance and ending balance results in an inequitable factor, the average outstanding loan balance may be computed on a monthly average balance.

(5) The payroll factor specified in subsection (2)(b) of this section shall be determined for the preceding calendar year under the provisions of KRS 141.120(8)(b) and regulations promulgated thereunder.

(6) By July 1 succeeding the filing of the report as provided in subsection (1) of this section, each financial institution included in subsection (1) of this section shall pay directly into the State Treasury a tax of one dollar ($1) for each one thousand dollars ($1,000) paid in on its Kentucky taxable capital as fixed in subsection (2)(c) of this section. The institution shall not be required to pay local taxes upon its capital stock, surplus, undivided profits, notes, mortgages, or other credits, and the tax provided by this section shall be in lieu of all taxes for state purposes on intangible property of the institution, nor shall any depositor of the institution be required to list his deposits for taxation under KRS 132.020. Failure to make reports and pay taxes as provided in this section shall subject the institution to the same penalties imposed for such failure on the part of the other corporations.

(7) If a financial institution included in subsection (1) of this section selects, it may deduct taxes imposed in subsection (6) of this section from the dividends paid or credited to a nonborrowing shareholder.

(8) Every Agricultural Credit Association chartered by the Farm Credit Administration being authorized to transact business in Kentucky but having no employees located within or without the state shall be subject to the same tax imposed pursuant to either KRS 136.300 or this section as that imposed upon its wholly owned Production Credit Association subsidiary. For purposes of computing Kentucky apportioned value of capital pursuant to subsection (2) of this section, those Agricultural Credit Associations subject to the tax imposed by this section shall utilize that Kentucky apportionment fraction computed and utilized by its wholly owned Production Credit Association subsidiary for the same report period.

Section 317. KRS 136.320 is amended to read as follows:

(1) Each life insurance company incorporated under the laws of and doing business in Kentucky shall value as of January 1 and report to the ***Department of*** Revenue[~~ Cabinet~~] by April 1 each year, on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~], the following:

(a) The fair cash value of the company's intangible personal property, hereinafter referred to as "capital," consisting of all money in hand, shares of stock, notes, bonds, accounts, and other credits, exclusive of due and deferred premiums, whether secured by mortgage, pledge, or otherwise, or unsecured.

(b) The fair cash value of the company's intangible personal property exempt from taxation by law.

(c) The aggregate amount of the company's reserves, reduced by the amount of due and deferred premiums, maintained in accordance with the applicable provisions of KRS 304.6-040 and 304.6-130 to 304.6-180, on all outstanding policies and contracts supplementary thereto.

(d) Other information as may be required by the ***Department of*** Revenue[~~ Cabinet~~] to accurately determine the fair cash value of each company's "taxable capital" and "taxable reserves."

(2) Based on information supplied by each company and other information that may be available, the ***Department of*** Revenue[~~ Cabinet~~] shall value each company's "taxable capital" and "taxable reserves" as follows:

(a) "Taxable capital" shall be determined by deducting "taxable reserves" from "capital," less exempt intangible personal property.

(b) "Taxable reserves" shall be determined by multiplying the aggregate amount of reserves as computed in subsection (1)(c) of this section by the percentage determined by dividing "capital," less exempt intangible personal property, by "capital," including exempt intangible personal property.

(3) (a) An annual tax for state purposes shall be imposed against the fair cash value of "taxable capital" for calendar years beginning before 2000, at a rate of seventy cents ($0.70) on each one hundred dollars ($100).

(b) An annual tax for state purposes shall be imposed against every company making an election pursuant to KRS 136.335 to be taxed under this section, against the fair cash value of taxable capital for calendar years beginning in 2000 as follows:

1. For calendar year 2000, fifty-six cents ($0.56) on each one hundred dollars ($100);
2. For calendar year 2001, forty-two cents ($0.42) on each one hundred dollars ($100);
3. For calendar year 2002, twenty-eight cents ($0.28) on each one hundred dollars ($100);
4. For calendar year 2003, fourteen cents ($0.14) on each one hundred dollars ($100); and
5. For calendar year 2004 and each calendar year thereafter, one tenth of one cent ($0.001) on each one hundred dollars ($100).

(c) An annual tax for state purposes shall be imposed at a rate of one-tenth of one cent ($0.001) on each one hundred dollars ($100) of the fair cash value of "taxable reserves"

(d) Beginning in tax year 2004 an insurer may offset the tax liability imposed under this subsection against the tax liability imposed under subsection (4) of this section.

(4) For calendar year 2000, and each calendar year thereafter, every company subject to the tax imposed by subsection (3) of this section, and making an election pursuant to KRS 136.335 to be taxed under this section, shall pay the following rates of tax upon each one hundred dollars ($100) of premium receipts:

(a) For calendar year 2000, thirty-eight cents ($0.38);

(b) For calendar year 2001, seventy-two cents ($0.72);

(c) For calendar year 2002, one dollar and two cents ($1.02);

(d) For calendar year 2003, one dollar and twenty-eight cents ($1.28); and

(e) For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50).

Every company subject to the tax imposed by this subsection shall, by March 1 of each year, return to the ***Department of*** Revenue[~~ Cabinet~~] a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, premiums received for original insurance, premiums received for renewal, revival, or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance but dividends on accident and health insurance policies may be deducted.

(5) The taxes imposed under subsections (3) and (4) of this section shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district, except as provided in subsections (6) and (7) of this section.

(6) The county in which the principal office of the company is located may impose a tax of fifteen cents ($0.15) on each one hundred dollars ($100) of "taxable capital."

(7) The city in which the principal office of the company is located may impose a tax of fifteen cents ($0.15) on each one hundred dollars ($100) of "taxable capital."

(8) The ***Department of*** Revenue[~~ Cabinet~~] shall by September 1 each year bill each company for the state taxes. It shall immediately certify to the county clerk of the county in which the principal office of the company is located the value of

"taxable capital" subject to local taxation. The county clerk shall prepare and deliver a bill to the sheriff for collection of taxes collectible by the sheriff and shall certify the value to all other collecting officers of districts authorized to levy a tax.

(9) Each company's real and tangible personal property shall be subject to taxation at fair cash value by the state, county, school, and other taxing districts in which the property is located in the same manner and at the same rates as all other property of the same class.

(10) Taxes on property subject to taxation under this section shall be subject to the same discount and penalties as provided in KRS 134.020 and shall be collected in the same manner as taxes on property locally assessed, except that the state tax on the "taxable capital" and "taxable reserves" shall be collected directly by the ***Department of*** Revenue[~~ Cabinet~~].

(11) Any taxpayer subject to taxation under this section may protest in the manner provided in KRS 131.110.

Section 318. KRS 136.330 is amended to read as follows:

(1) Every life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the ***Department of*** Revenue[~~ Cabinet~~] a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted. Premium receipts shall not include annuity premiums or annuity dividends beginning in calendar year 2000.

(2) (a) An annual tax on premium receipts shall be imposed against every company making a return under this subsection for calendar years beginning before 2000 at a rate of two dollars ($2) upon each one hundred dollars ($100) of premium receipts.

(b) An annual tax on premium receipts shall be imposed against every company making an election pursuant to KRS 136.335 to be taxed under this section, and every company making a return under this section, for calendar years beginning in 2000 as follows:

1. For calendar year 2000, one dollar and ninety cents ($1.90) upon each one hundred dollars ($100) of premium receipts;
2. For calendar year 2001, one dollar and eighty cents ($1.80) upon each one hundred dollars ($100) of premium receipts;
3. For calendar year 2002, one dollar and seventy cents ($1.70) upon each one hundred dollars ($100) of premium receipts;
4. For calendar year 2003, one dollar and sixty cents ($1.60) upon each one hundred dollars ($100) of premium receipts; and
5. For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50) on each one hundred dollars ($100) of premium receipts.

(3) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 shall not be subject to taxation under this section.

Section 319. KRS 136.335 is amended to read as follows:

Beginning with calendar year 2000, every life insurance company incorporated under the laws of and doing business in Kentucky shall make an irrevocable election whether to be taxed under the provisions of KRS 136.320 or 136.330. For insurance companies incorporated under the laws of and doing business in Kentucky, prior to January 1, 2000, the election shall be filed with the commissioner of insurance and the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] on or before January 1, 2000. For insurance companies applying for a certificate to do business in Kentucky as a domestic life insurance company, after January 1, 2000, the election shall be filed with the company's initial application for certificate of authority to do business in Kentucky.

Section 320. KRS 136.340 is amended to read as follows:

(1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the ***Department of*** Revenue[~~ Cabinet~~] a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

(2) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 shall not be subject to taxation under this section.

Section 321. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the ***Department of*** Revenue[~~ Cabinet~~] on or before the first day of March in each year, a tax of two percent (2%) of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.

(5) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and 18A.228 shall not be subject to taxation under this section.

Section 322. KRS 136.360 is amended to read as follows:

Every stock insurer other than life doing business in this state shall pay to the ***Department of*** Revenue[~~ Cabinet~~] on or before the first day of March of each year, for the purpose of defraying the expenses authorized by KRS Chapter 227, and KRS Chapter 304, Subtitle 24, three-fourths of one percent (0.75%) of all amounts paid to such insurance company or its representative, whether such payments are designated as premiums or otherwise, during the previous calendar year for fire insurance and that portion of the premium reasonably allocable to insurance against the hazard of fire included in other coverages other than life and disability insurances. In computing such amounts there shall be deducted amounts refunded on policies canceled or not taken, and dividends paid or credited to policyholders. All amounts so collected shall be deposited in the general expenditure fund in the State Treasury.

Section 323. KRS 136.370 is amended to read as follows:

Each attorney, for the exchange of reciprocal or interinsurance contracts, under KRS Chapter 304, shall pay to the ***Department of*** Revenue[~~ cabinet~~] on or before March 1 of each year a tax of two percent (2%) of the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, less all amounts returned to subscribers or accredited to their account as savings. In addition, the attorney shall pay an annual premium tax of three-fourths of one percent (0.75%) of all amounts as prescribed for every stock insurer by and for the purposes specified in KRS 136.360.

Section 324. KRS 136.390 is amended to read as follows:

(1) All associations of underwriters authorized under KRS 304.3-040, 304.3-140, 304.28-010, 304.28-030, 304.28-040, and 304.28-050, and their representatives, shall make the same reports as are required of foreign stock insurance companies and their representatives transacting the same or similar kinds of insurance business in this state, and shall pay the same taxes as are required to be paid by such companies.

(2) All foreign mutual assessment companies, associations, individual firms, underwriters or Lloyd's, having resident members doing business in this state, who shall enter into contracts of insurance with each other or into agreements to indemnify each other against losses by fire, lightning, windstorm or other casualties for which there is no premium charged or collected at the time insurance is made, shall be deemed to be doing an insurance business in this state, and shall annually, by July 30, pay to the ***Department of*** Revenue[~~ Cabinet~~] a license tax of two dollars ($2) upon each one hundred dollars ($100) of assessments paid or collected in any one (1) year. Each resident member shall be liable to the state for the license tax and all interest and penalties.

(3) No person shall fail or refuse to make a report giving all the data and information necessary to determine the amount of revenue due under subsection (2) of this section, or fail to make the report provided for in subsection (2) of this section, or fail to pay the tax due thereon.

Section 325. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the ***Department of*** Revenue[~~ Cabinet~~], on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the

previous two (2) calendar years may report and remit to the ***Department of*** Revenue[~~ Cabinet~~] all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).

(b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the ***commissioner***[~~secretary~~] of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the ***commissioner***[~~secretary~~] of revenue to calculate an appropriate rate, the secretary for the Public Protection and Regulation Cabinet and the secretary for the Justice Cabinet shall certify to the ***commissioner***[~~secretary~~] of revenue, no later than January 1 of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the ***commissioner***[~~secretary~~] of revenue shall advise the commissioner of insurance of the new rate and the commissioner ***of revenue*** shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

(4) No later than July 1 of each year, the Department of Insurance shall provide the ***Department of*** Revenue[~~ Cabinet~~] with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Department of Insurance. The ***Department of*** Revenue[~~ Cabinet~~] shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year, and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Department of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the ***department***[~~cabinet~~] shall not identify or divulge the confidential tax information of any individual insurer in this report.

Section 326. KRS 136.410 is amended to read as follows:

Every bail bondsman doing business in this Commonwealth shall, on or before the first day of March of each year, return to the ***Department of*** Revenue[~~ Cabinet~~] a statement of all amounts paid to him or his representatives, as premiums for bail bonds written in the courts of this Commonwealth during the preceding calendar year, or since the last returns were made, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the bail bondsman or his representatives. Amounts received for reimbursement for expenses or court costs are not to be considered as premiums for the purposes of this section.

Section 327. KRS 136.500 is amended to read as follows:

As used in KRS 136.500 to 136.575, unless the context requires otherwise:

(1) "Billing address" means the location indicated in the books and records of the financial institution, on the first day of the

taxable year or the date in the taxable year when the customer relationship began, as the address where any notice, statement, or bill relating to a customer's account is mailed;

(2) "Borrower located in this state" means a borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state or a borrower that is not engaged in a trade or business;

(3) "Credit card holder located in this state" means a credit card holder whose billing address is in this state;

(4) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~];

(5) "Commercial domicile" means:

(a) The location from which the trade or business is principally managed and directed; or

(b) The state of the United States or the District of Columbia from which the financial institution's trade or business in the United States is principally managed and directed, if a financial institution is organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of the employees are performed, as of the last day of the taxable year;

(6) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in the employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, the determination of whether the payments would constitute gross income to the employees under the Internal Revenue Code shall be made as though the employees were subject to the Internal Revenue Code;

(7) "Credit card" means credit, travel, or entertainment card;

(8) "Credit card issuer's reimbursement fee" means the fee a financial institution receives from a merchant's bank because one (1) of the persons to whom the financial institution has issued a credit card has charged merchandise or services to the credit card;

(9) "Employee" means, with respect to a particular financial institution, "employee" as defined in Section 3121(d) of the Internal Revenue Code;

(10) "Financial institution" means:

(a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;

(b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 287.135;

(c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or

(d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;

(11) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property.

(a) "Gross rents" includes but is not limited to:

1. Any amount payable for the use or possession of real property or tangible property, whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

2. Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

3. A proportionate part of the cost of any improvement to real property made by or on behalf of the financial institution which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land by or on behalf of the financial institution, the value of the land is determined by multiplying the gross rent by eight (8) and the value of the building is determined in the same manner as if owned by the financial institution;

(b) The following are not included in the term "gross rents":

1. Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

2. Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

3. Reasonable amounts payable for storage, if these amounts are payable for space not designated and not

under the control of the financial institution; and

4. That portion of any rental payment which is applicable to the space subleased from the financial institution and not used by it;

(12) "Internal Revenue Code" means the Internal Revenue Code, Title 26 U.S.C., in effect on December 31, 2001, exclusive of any amendments made subsequent to that date;

(13) "Loan" means any extension of credit resulting from direct negotiations between the financial institution and its customer, and the purchase, in whole or in part, of the extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under Section 595 of the Internal Revenue Code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, noninterest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment company, or other mortgage-backed or asset-backed security, and other similar items;

(14) "Loan secured by real property" means a loan or other obligation for which fifty percent (50%) or more of the aggregate value of the collateral used to secure the loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property;

(15) "Merchant discount" means the fee or negotiated discount charged to a merchant by the financial institution for the privilege of participating in a program where a credit card is accepted in payment for merchandise or services sold to the card holder;

(16) "Person" means an individual, estate, trust, partnership, corporation, limited liability company, or any other business entity;

(17) "Principal base of operations" means:

(a) With respect to transportation property, the place from which the property is regularly directed or controlled; and

(b) With respect to an employee:

1. The place the employee regularly starts work and to which the employee customarily returns in order to receive instructions from his or her employer; or

2. If the place referred to in subparagraph 1. of this paragraph does not exist, the place the employee regularly communicates with customers or other persons; or

3. If the place referred to in subparagraph 2. of this paragraph does not exist, the place the employee regularly performs any other functions necessary to the exercise of the employee's trade or profession at some other point or points;

(18) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the financial institution may claim depreciation for federal income tax purposes, or property to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure;

(19) "Regular place of business" means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution;

(20) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country;

(21) "Syndication" means an extension of credit in which two (2) or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount;

(22) "Taxable year" means calendar year 1996 and every calendar year thereafter;

(23) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to the property, such as rolling stock, barges, or trailers;

(24) "United States obligations" means all obligations of the United States exempt from taxation under 31 U.S.C. sec. 3124(a) or exempt under the United States Constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States Constitution or any statute of the United States; and

(25) "Kentucky obligations" means all obligations of the Commonwealth of Kentucky, its counties, municipalities, taxing districts, and school districts, exempt from taxation under the Kentucky Revised Statutes and the Constitution of Kentucky.

Section 328. KRS 136.525 is amended to read as follows:

(1) A financial institution whose business activity is taxable both within and without this Commonwealth shall apportion its net capital pursuant to the provisions of this section.

(2) Net capital shall be apportioned to this Commonwealth by multiplying total net capital by the apportionment percentage.

The apportionment percentage is determined by adding together the financial institution's receipts factor as determined under the provisions of KRS 136.530, property factor as determined under the provisions of KRS 136.535, and payroll factor as determined under the provisions of KRS 136.540 and dividing the sum by three (3). If one (1) of the factors is missing, the two (2) remaining factors are added and the sum is divided by two (2). If two (2) of the factors are missing, the remaining factor is the apportionment percentage. A factor is missing if both its numerator and denominator are zero (0), but it is not missing merely because the numerator is zero (0).

(3) Each factor shall be calculated by the method of accounting used by the financial institution for the taxable year.

(4) If the apportionment provisions of KRS 136.500 to 136.575 do not fairly represent the extent of the financial institution's business activity in this Commonwealth, the financial institution may petition for or the ***department***~~[cabinet]~~ may require, in respect to all or any part of the financial institution's business activity, if reasonable:

- (a) Separate accounting;
- (b) The exclusion of any one (1) or more of the factors;
- (c) The inclusion of one (1) or more additional factors which will fairly represent the financial institution's business activity in this Commonwealth; or
- (d) The employment of any other method to effectuate an equitable apportionment of the financial institution's net capital.

Section 329. KRS 136.530 is amended to read as follows:

(1) The receipts factor is a fraction, the numerator of which is the receipts of the financial institution in this Commonwealth during the taxable year as determined by subsection (2) of this section and the denominator of which is the receipts of the financial institution within and without this Commonwealth during the taxable year. Receipts shall include the following:

- (a) Receipts from the lease or rental of real property owned by the financial institution;
- (b) Receipts from the lease or rental of tangible personal property owned by the financial institution;
- (c) Interest and fees or penalties in the nature of interest from loans secured by real property;
- (d) Interest and fees or penalties in the nature of interest from loans not secured by real property;
- (e) Net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code;
- (f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees;
- (g) Net gains, but not less than zero (0), from the sale of credit card receivables;
- (h) All credit card issuer's reimbursement fees;
- (i) Receipts from merchant discount. Receipts from merchant discount shall be computed net of any cardholder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders;
- (j) Loan servicing fees derived from loans secured by real property;
- (k) Loan servicing fees derived from loans not secured by real property;
- (l) Interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities. Investment assets and activities and trading assets and activities include but are not limited to investment securities, trading account assets, federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions. The receipts factor shall include the following amounts:
  - 1. The amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements; and
  - 2. The amount by which interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from these assets and activities;
- (m) All receipts derived from sales that would be included in the factor established by KRS 136.070(3)(d)1., 2., and 3.; and
- (n) Receipts from services not otherwise specifically listed.

(2) A determination of whether receipts should be included in the numerator of the fraction shall be made as follows:

- (a) Receipts from the lease or rental of real property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth or receipts from the sublease of real property if the property is located within this Commonwealth.
- (b) 1. Except as described in subparagraph 2. of this paragraph, receipts from the lease or rental of tangible

personal property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth when it is first placed in service by the lessee.

2. Receipts from the lease or rental of transportation property owned by the financial institution are included in the numerator of the receipts factor to the extent that the property is used in this Commonwealth. The extent an aircraft will be deemed to be used in this Commonwealth and the amount of receipts that is to be included in the numerator of this Commonwealth's receipts factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(c) 1. Interest and fees or penalties in the nature of interest from loans secured by real property shall be included in the numerator if the property is located within this Commonwealth. If the property is located both within this Commonwealth and one (1) or more other states, receipts shall be included if more than fifty percent (50%) of the fair market value of the real property is located within this Commonwealth. If more than fifty percent (50%) of the fair market value of the real property is not located within any one (1) state, then the receipts described in this subparagraph shall be included in the numerator if the borrower is located in this Commonwealth.

2. The determination of whether the real property securing a loan is located within this Commonwealth shall be made as of the time the original agreement was made, and any subsequent substitutions of collateral shall be disregarded.

(d) Interest and fees or penalties in the nature of interest from loans not secured by real property shall be included in the numerator if the borrower is located in this Commonwealth.

(e) Net gains from the sale of loans shall be included in the numerator as provided in subparagraphs 1. and 2. of this paragraph. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.

1. The amount of net gains, but not less than zero (0), from the sale of loans secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

2. The amount of net gains, but not less than zero (0), from the sale of loans not secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, shall be included in the numerator if the billing address of the card holder is in this Commonwealth.

(g) Net gains, but not less than zero (0), from the sale of credit card receivables to be included in the numerator shall be determined by multiplying the amount established in paragraph (g) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(h) Credit card issuer's reimbursement fees to be included in the numerator shall be determined by multiplying the amount established in paragraph (h) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(i) Receipts from merchant discount shall be included in the numerator if the commercial domicile of the merchant is in this Commonwealth. Receipts from merchant discount shall be computed net of any cardholder charge backs but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(j) 1. a. Loan servicing fees derived from loans secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (j) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

b. Loan servicing fees derived from loans not secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (k) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

2. In circumstances in which the financial institution receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include the fees if the borrower is located in this Commonwealth.

(k) Receipts from services not otherwise apportioned under this section shall be included in the numerator if the service is performed in this Commonwealth. If the service is performed both within and without this Commonwealth, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income-producing activity is performed in this Commonwealth based on cost of performance.

(l) 1. The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities described in paragraph (l) of subsection (1) of this section that are attributable to this Commonwealth.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from the assets and activities by a fraction the numerator of which is the average value of the assets that are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all the assets.

b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all funds and securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the average value of trading assets which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all assets.

d. For purposes of this subparagraph, average value shall be determined using the rules for determining the average value of tangible personal property set forth in KRS 136.535(3) and (4).

2. In lieu of using the method set forth in subparagraph 1. of this paragraph, the financial institution may elect, or the ***department***[~~cabinet~~] may require in order to fairly represent the business activity of the financial institution in this Commonwealth, the use of the method set forth in this subparagraph.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from assets and activities by a fraction the numerator of which is the gross income from assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the gross income from funds and securities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all funds and securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the gross income from trading assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

3. If the financial institution elects or is required by the ***department***~~[cabinet]~~ to use the method set forth in subparagraph 2. of this paragraph, it shall use this method on all subsequent returns unless the financial institution receives prior permission from the ***department***~~[cabinet]~~ to use, or the ***department***~~[cabinet]~~ requires, a different method.

4. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside this Commonwealth by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this Commonwealth. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one (1) regular place of business and one (1) regular place of business is in this Commonwealth and one (1) regular place of business is outside this Commonwealth, the asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, the policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.

(m) The numerator of the receipts factor includes all other receipts derived from sales as determined pursuant to the provisions set forth in KRS 136.070(3)(d)1., 2., and 3.

(n) 1. All receipts that would be assigned under this section to a state in which the financial institution is not taxable shall be included in the numerator of the receipts factor, if the financial institution's commercial domicile is in this Commonwealth.

2. For purposes of subparagraph 1. of this paragraph, "taxable" means either:

a. That a financial institution is subject in another state to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a corporate stock tax including a bank shares tax, a single business tax, an earned surplus tax, or any tax which is imposed upon or measured by net income; or

b. That another state has statutory authority to subject the financial institution to any of the taxes in subdivision a. of this subparagraph, whether in fact the state does or does not impose the tax.

Section 330. KRS 136.535 is amended to read as follows:

(1) As used in this section:

(a) "Administration" means the process of managing an account. The process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement and proceeding against the borrower or the security interest if the borrower is in default. The activity is located at the regular place of business that oversees this activity;

(b) "Approval" means the procedure whereby employees or the board of directors of the financial institution make the final determination whether to enter into the agreement. The activity is located at the regular place of business which the financial institution's employees making the final determination are regularly connected with or working out of, regardless of where the services of the employees were actually performed. If the board of directors makes the final determination, the activity is located at the commercial domicile of the financial institution;

(c) "Investigation" means the procedure whereby employees of the financial institution determine the credit worthiness of the customer as well as the degree of risk involved in making a particular agreement. The activity is located at the regular place of business which the financial institution's employees making the investigation are regularly connected with or working out of, regardless of where the services of the employees were actually performed;

(d) "Negotiation" means the procedure whereby employees of the financial institution and its customer determine the terms of the agreement, including the amount, duration, interest rate, frequency of repayment, currency denomination, and security required. The activity is located at the regular place of business which the financial institution's employees are regularly connected with or out of, regardless of where the services of the employees were actually performed;

(e) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower; and

(f) "Solicitation" occurs when:

1. An employee of the financial institution initiates contact with the customer. The activity is located at the

regular place of business which the financial institution's employee making the contact is regularly connected with or working out of, regardless of where the services of the employee were actually performed; or

2. The customer initiates the contact with the financial institution. If the customer's initial contact was not at a regular place of business of the financial institution, the regular place of business, if any, where the solicitation occurred is determined by the facts in each case.

(2) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the financial institution that is located or used within this Commonwealth during the taxable year, the average value of the financial institution's real and tangible personal property owned that is located or used within this Commonwealth during the taxable year, and the average value of the financial institution's loans and credit card receivables that are located within this Commonwealth during the taxable year, and the denominator of which is the average value of all such property located or used within and without this Commonwealth during the taxable year. Average value of property is determined under subsection (4) of this section.

(3) (a) The value of real property and tangible personal property owned by the financial institution is the original cost or other basis of property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged off in whole or in part for federal income tax purposes, the portion of the loan charged off is not outstanding. A specifically-allocated reserve established pursuant to regulatory or financial accounting guidelines which is treated as charged off for federal income tax purposes shall be treated as charged off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the receivable charged off is not outstanding.

(4) The average value of property owned by the financial institution is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two (2). If averaging on this basis does not properly reflect average value, the ***department***[~~cabinet~~] may require averaging on a more frequent basis. The financial institution may request permission from the ***department***[~~cabinet~~] to average on a more frequent basis. When averaging on a more frequent basis is authorized by the ***department***[~~cabinet~~], the same method of valuation shall be used consistently by the financial institution with respect to property within and without this Commonwealth and on all subsequent returns unless the financial institution receives prior permission from the ***department***[~~cabinet~~] or the ***department***[~~cabinet~~] requires a different method of determining average value.

(5) (a) The average value of real property and tangible personal property that the financial institution has rented from another and which is not treated as property owned by the financial institution for federal income tax purposes shall be determined annually by multiplying the gross rents payable during the taxable year by eight (8).

(b) Where the use of the general method described in this subsection results in inaccurate valuations of rented property, any other method which properly reflects the value may be adopted by the ***department***[~~cabinet~~] or by the financial institution when approved in writing by the ***department***[~~cabinet~~]. Once approved, the alternative method of valuation shall be used on all subsequent returns unless the financial institution receives prior approval from the ***department***[~~cabinet~~] or the ***department***[~~cabinet~~] requires a different method of valuation.

(6) (a) Except as described in paragraph (b) of this subsection, real property and tangible personal property owned by or rented to the financial institution is considered to be located within this Commonwealth if it is physically located, situated, or used within this Commonwealth.

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this Commonwealth. The extent to which an aircraft shall be deemed to be used in this Commonwealth and the amount of value that is to be included in the numerator of this Commonwealth's property factor is determined by multiplying the average value of the aircraft by a fraction the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(7) (a) 1. A loan is considered to be located within this Commonwealth if it is properly assigned to a regular place of business of the financial institution within this Commonwealth.

2. A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the financial institution to a regular place of business without the Commonwealth shall be presumed to have been properly assigned if:

a. The financial institution has assigned, in the regular course of its business, the loan on its records to a regular place of business consistent with federal or state regulatory requirements;

b. The assignment on its records is based upon substantive contacts of the loan to the regular place of business; and

c. The financial institution uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

3. The presumption of proper assignment of a loan provided in subparagraph 2. of this paragraph may be rebutted upon a showing by the ***department***[~~cabinet~~], supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan did not occur at the regular place of business to which it was assigned on the financial institution's records. When the presumption has been rebutted, the loan shall then be located within this Commonwealth if the financial institution had a regular place of business within this Commonwealth at the time the loan was made and the financial institution fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan occurred outside this Commonwealth.

(b) For financial institutions with commercial domicile in this Commonwealth as defined in KRS 136.500, it shall be presumed, subject to rebuttal by the financial institution on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this Commonwealth.

(c) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis, and consideration shall be given to activities such as the solicitation, investigation, negotiation, approval, and administration of the loan as defined in subsection (1) of this section.

(8) Credit card receivables shall be treated as loans and shall be subject to the provisions of subsection (7) of this section.

(9) A loan that has been properly assigned to a state shall, absent any change of material fact, remain assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if that loan has a preponderance of substantive contacts to a regular place of business there.

Section 331. KRS 136.545 is amended to read as follows:

(1) On or before the March 15 following each taxable year, a return for the preceding taxable year shall be filed with the ***department***[~~cabinet~~] in the form and manner prescribed by the ***department***[~~cabinet~~], together with payment of any tax due.

(2) A return shall be filed by each financial institution.

(3) The return shall show the amount of taxes for the period covered by the return and other information necessary for the proper administration of KRS 136.500 to 136.575.

(4) The ***department***[~~cabinet~~] shall, upon written request received on or prior to the due date of the return and tax, grant an automatic extension of up to ninety (90) days for the filing of returns. An extension of time to file a return does not extend the payment of tax due, which shall be estimated by the financial institution and paid on or before the date specified in subsection (1) of this section.

(5) If the time for filing a return is extended, the financial institution shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax shown due on the return but not previously paid, from the time the tax was due until the return is actually filed with the ***department***[~~cabinet~~].

Section 332. KRS 136.550 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the financial institution, the excess shall be assessed by the ***department***[~~cabinet~~] within four (4) years from the date prescribed by law for the filing of a return including an extension of time for filing, except as provided in this subsection. A notice of the assessment shall be mailed to the financial institution.

(a) In the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time.

(b) In the case of a return wherein a financial institution understates its net capital or omits from net capital an amount properly includible therein or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net capital stated in the return, the excess may be assessed at any time within six (6) years after the return was filed.

(2) For the purpose of subsection (1) of this section, a return filed before the last day prescribed by law for the filing shall be considered as filed on the last day. The times provided for in subsection (1) of this section may be extended by agreement between the financial institution and the ***department***[~~cabinet~~].

Section 333. KRS 136.560 is amended to read as follows:

(1) Every financial institution shall keep records, receipts, invoices, and other pertinent papers in the form as the ***department***[~~cabinet~~] may require.

(2) Every financial institution that files the returns required under KRS 136.545 shall keep records for not less than six (6) years from the making of records unless the ***department***[~~cabinet~~] in writing authorizes their destruction at an earlier date.

Section 334. KRS 136.575 is amended to read as follows:

(1) As used in this section, "deposits" means all demand and time deposits, excluding deposits of the United States

government, state and political subdivisions, other financial institutions, public libraries, educational institutions, religious institutions, charitable institutions, and certified and officers' checks.

(2) Counties, cities, and urban-county governments may impose a franchise tax on financial institutions measured by the deposits in the institutions located within the jurisdiction of the county, city, or urban-county government at a rate not to exceed twenty-five thousandths of one percent (0.025%) of the deposits if imposed by counties and cities and at a rate not to exceed fifty thousandths of one percent (0.050%) of the deposits if imposed by urban-county governments. The amount and location of deposits in the financial institutions shall be determined by the method used for filing the summary of deposits report with the Federal Deposit Insurance Corporation. The accounting method used to allocate deposits for completion of the summary of deposits shall be the same as has been utilized in prior periods. Any deviation from prior accounting methods may only be adopted with the permission of the ***department***[~~cabinet~~].

(3) By August 15, 1997, and annually thereafter, each financial institution shall file with the ***department***[~~cabinet~~], on a form prescribed by the ***department***[~~cabinet~~], a report of all deposits located within this Commonwealth as of the preceding June 30, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation. The ***department***[~~cabinet~~] shall review the report and certify to the local jurisdictions that have enacted the franchise tax by October 1 of each year the amount of deposits within the jurisdiction and amount of the tax due. The local taxing authority shall issue bills to the financial institution by December 1 and require payment, with a two percent (2%) discount by December 31, or without discount by January 31 of the next year.

(4) For calendar year 1996 only, each financial institution shall file with the ***department***[~~cabinet~~] on or before September 15, 1996, a report of all deposits located within this Commonwealth as of June 30, 1996, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation. The ***department***[~~cabinet~~] shall review the report after being given notice by the local jurisdiction that the tax under this section was enacted during 1996, and shall certify to the local jurisdiction the amount of deposits within the jurisdiction and the amount of tax due by March 1, 1997. The local taxing authority shall issue bills to the financial institution by May 1, 1997, and require payment with a two percent (2%) discount by May 31, 1997, or without discount by June 30, 1997.

(5) The local jurisdiction shall notify the ***department***[~~cabinet~~] of the tax rate imposed upon the enactment of the tax. The local jurisdiction shall also notify the ***department***[~~cabinet~~] of any subsequent rate changes.

Section 335. KRS 136.980 is amended to read as follows:

If any tax imposed by KRS 136.330 to 136.395, 299.530 and 304.4-030, whether assessed by the ***department***[~~cabinet~~], or the taxpayer, or any installment or portion of any tax is not paid on or before the date prescribed for its payment, there shall be collected interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the ***department***[~~cabinet~~].

Section 336. KRS 136.990 is amended to read as follows:

(1) Any corporation that fails to pay its taxes, penalty, and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars ($50) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

(2) Any public service corporation, or officer thereof, that willfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars ($1,000), and fifty dollars ($50) for each day the reports are not made after April 30 of each year.

(3) Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(4) Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars ($1,000) for each offense.

(5) Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars ($100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS Chapter 424.

(6) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(7) Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden by this chapter, the penalty shall be not less than ten dollars ($10) nor more than five hundred dollars ($500).

(8) The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections (4) to (6) of this section.

(9) Any person who violates any of the provisions of KRS 136.073 or KRS 136.090 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(10) If the tax imposed by KRS 136.070 or KRS 136.073, whether assessed by the ***department***[~~cabinet~~] or the taxpayer, or any installment or portion of the tax, is not paid on or before the date prescribed for its payment, interest shall be collected upon the nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the ***department***[~~cabinet~~].

Section 337. KRS 137.130 is amended to read as follows:

(1) Every person engaged in the transportation of crude petroleum in this state from receptacles located at the place of production in this state shall be considered a transporter of crude petroleum. Every transporter of crude petroleum shall make a verified report to the ***Department of*** Revenue[~~ Cabinet~~] by the twentieth day of the month succeeding each month in which crude petroleum is so received for transportation, showing the quantity of each kind or quality of crude petroleum so received from each county in this state and the market value of the crude petroleum on the first business day after the tenth day of the month in which the report is made. The report shall show any sales of crude petroleum so received, the quantity of crude petroleum in each sale, the date of each sale, and the market price of the crude petroleum on each date of sale for the preceding month. This report shall be made upon blanks furnished and prescribed by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] may require additional reports from time to time, on blanks prepared by it, from all producers and transporters of crude petroleum.

(2) Every person required to report under subsection (1) of this section shall register as a transporter of crude petroleum in the office of the county clerk in each county in which such business is carried on by him, in a book which the ***department***[~~cabinet~~] shall provide, showing the name, residence and place of business of the transporter. The county clerk shall immediately certify to the ***department***[~~cabinet~~] a copy of each registration as made.

Section 338. KRS 137.140 is amended to read as follows:

Every transporter of crude petroleum shall be liable for the taxes imposed under KRS 137.120 on all crude petroleum received by him. He shall collect from the producer, in money or crude petroleum, the taxes imposed. If collection is in crude petroleum, the transporter may sell the same and pay the taxes by check or cash to the ***Department of*** Revenue[~~ Cabinet~~] or sheriff, as provided in KRS 137.150 and 137.160.

Section 339. KRS 137.150 is amended to read as follows:

Any county imposing a tax under KRS 137.120 shall immediately after the levy of the tax give notice thereof to each transporter of crude petroleum registered in the county. The transporter shall, after the first day of the month immediately following such notice, proceed as provided in KRS 137.140 to collect the county tax and pay it to the sheriff of the county in the manner and at the time payment of such taxes is required to be made to the ***Department of*** Revenue[~~ Cabinet~~]. Each county imposing the tax shall, upon the fixing of the levy, certify the same to the ***department***[~~cabinet~~], which shall make the assessment for the county tax in the same manner and at the same value as provided for the state tax, which shall be certified to the county for collection.

Section 340. KRS 137.160 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] has received the reports provided for in KRS 137.130, it shall, upon such reports and such other reports and information as it may secure, assess the value of all grades or kinds of crude petroleum reported for each month.

(2) Where the report shows no sale of crude petroleum during the month covered by the report, the market value of crude petroleum on the first business day after the tenth day of the month in which the report is made shall be fixed by the ***department***[~~cabinet~~] as the assessed value of all crude petroleum covered by the report. Where the report shows that all crude petroleum reported has been sold during the month covered by the report, the market price of such crude petroleum on each day of sale shall be the assessed value of all crude petroleum sold on that date of sale, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on such sales. If the report shows that part of the crude petroleum reported has been sold and part remains unsold, the market price of the crude petroleum on the first business day after the tenth day of the month following the month covered by the report shall be fixed as the assessed value of the portion of the crude petroleum unsold, the market price of the crude petroleum on each day of sale shall be the assessed value of the portion sold, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on the sold and unsold crude petroleum. The ***department***[~~cabinet~~], in making its assessments, shall take into consideration transportation charges.

(3) The ***department***[~~cabinet~~] shall, by the last day of the month in which the reports are required to be made, notify each transporter of his assessment, and certify the assessment to the county clerk of each county that has reported the levy of a county tax under KRS 137.150. The county clerk shall immediately deliver a copy thereof to the sheriff for collection of the county tax. The transporter so notified of the assessment shall have the right to an appeal to the Kentucky board of tax appeals.

Section 341. KRS 137.180 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall, on or before thirty (30) days following the close of each duly licensed race meeting, furnish the ***Department of*** Revenue[~~ Cabinet~~] a verified report of the number of days on which races were conducted on that race track during the race meeting, together with a statement of its daily mutuel handle for each day during the meeting, and at the same time pay to the state the tentatively correct amount of the license tax apparently due it pursuant to KRS 137.170.

(2) On or before December 31 in each year, each person engaged in the business of conducting a race track shall file a final report with the ***Department of*** Revenue[~~ Cabinet~~] giving in summary form a recapitulation of the information furnished by the previous tentative reports filed during the year, computing the final license tax due the state for the year ending November 30 and showing the amount of tentative license tax actually paid during the year. Any balance of license tax due

the state as shown on the final report shall be paid at the same time as the filing. Any overpayment in license tax disclosed by the final report shall, at the option of the taxpayer, be promptly refunded by the state or credited against the license tax to be due from the taxpayer in the following year.

(3) Any person who violates any provision of this section or KRS 137.170 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) upon the unpaid amount from the date prescribed for its payment until payment is actually made to the ***department***[~~cabinet~~].

Section 342. KRS 137.990 is amended to read as follows:

(1) (a) Any person who engages in any business or sells or offers to sell or has on hand for the purpose of sale any article or exercises any privilege for which a license is required or imposed by KRS 137.115 before procuring the license and paying the tax shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each offense, unless otherwise specifically provided;

(b) Any county clerk who violates any of the provisions of KRS 137.115, or any administrative regulation promulgated by the ***Department of*** Revenue[~~ Cabinet~~] thereunder, shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) for each offense; and

(c) Any person who makes a false statement in securing a license under KRS 137.115 shall be deemed guilty of a misdemeanor.

(2) (a) Any person who violates any provision of KRS 137.120 to 137.160 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180; and

(b) Any person who violates any of the provisions of KRS 137.120 to 137.160 may be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(3) Any person who violates any of the provisions of KRS 137.170 or 137.180 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail not more than thirty (30) days, or both so fined and imprisoned. If the offender is a corporation, the principal officer or the officer or employee directly responsible for the violation, or both, shall be punished as provided in this subsection.

Section 343. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

(1) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~].

(2) "Manufacturer" means any person who manufactures or produces cigarettes within or without this state.

(3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale.

(4) "Sale at retail" shall mean a sale to any person for any other purpose other than resale.

(5) "Cigarettes" shall mean and include any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(6) "Sale" or "sell" shall mean any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, and distribution in any manner or by any means whatsoever.

(7) "Tax evidence" shall mean and include any stamps, metered impressions or other indicia prescribed by the cabinet by regulation as a means of denoting the payment of tax.

(8) "Person" shall mean and include any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, Commonwealth of Kentucky or any of its political subdivisions, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular.

(9) "Resident wholesaler" shall mean any person who purchases at least seventy-five percent (75%) of all cigarettes purchased by him directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where he attaches cigarette tax evidence, or receives untaxed cigarettes.

(10) "Nonresident wholesaler" shall mean any person who purchases cigarettes directly from the manufacturer and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid.

(11) "Sub-jobber" shall mean any person who purchases cigarettes from a wholesaler licensed under KRS 138.195 on which the Kentucky cigarette tax has been paid and makes them available to retailers for resale. No person shall be deemed to make cigarettes available to retailers for resale unless such person certifies and establishes to the satisfaction of the ***department***[~~cabinet~~] that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes for resale in the regular course of business.

(12) "Vending machine operator" shall mean any person who operates one (1) or more cigarette vending machines.

(13) "Transporter" shall mean any person transporting untax-paid cigarettes obtained from any source to any destination within this state, other than cigarettes transported by the manufacturer thereof.

(14) "Unclassified acquirer" shall mean any person in this state who acquires cigarettes from any source on which the Kentucky cigarette tax has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195.

Section 344. KRS 138.146 is amended to read as follows:

(1) The cigarette tax imposed by KRS 138.130 to 138.205 shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

(2) The tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the cigarettes are received by him. A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The stamp, so affixed, shall be prima facie evidence of payment of tax. Unless such stamps have been previously affixed, they shall be so affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state. The evidence of tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state. The evidence of tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by him.

(3) The ***department***[~~cabinet~~] shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of such cigarette tax evidence, and the method and manner that such evidence shall be affixed to the cigarettes. All cigarette tax evidence prescribed by the ***department***[~~cabinet~~] shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or other mark on the cigarette tax evidence. The ***department***[~~cabinet~~] shall maintain for at least three (3) years information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.

(4) Units of cigarette tax evidence shall be sold at their face value, but the ***department***[~~cabinet~~] shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents ($0.30) face value for each three dollars ($3) of tax evidence purchased at face value. The ***department***[~~cabinet~~] shall have the power to withhold compensation from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.

(5) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing such evidence from the ***department***[~~cabinet~~]. Such tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person. Unaffixed tax evidence may be returned to the ***department***[~~cabinet~~] for credit or refund for any reason satisfactory to the ***department***[~~cabinet~~].

(6) In the event any retailer shall receive into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, he shall within twenty-four (24) hours notify the ***department***[~~cabinet~~] of such fact. Such notice shall be in writing, and shall give the name of the person from whom such cigarettes were received, and the quantity of such cigarettes, and such written notice may be given to any field agent of the ***department***[~~cabinet~~]. The written notice may also be directed to the ***commissioner of the Department of Revenue***[~~secretary of revenue~~], Frankfort, Kentucky. If such notice is given by means of the United States mail, it shall be sent by certified mail. Any such cigarettes shall be retained by such retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection. The retailer may, at his option, pay the tax due on any such cigarettes according to rules and regulations to be prescribed by the ***department***[~~cabinet~~], and proceed to sell the same after such payment.

(7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed, but any licensed wholesaler, licensed sub-jobber, or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

Section 345. KRS 138.155 is amended to read as follows:

In lieu of the affixing of cigarette tax evidence to individual packages of cigarettes as the means of denoting payment of the cigarette tax imposed by KRS 138.130 to 138.205, the ***department***[~~cabinet~~] may prescribe, by rules and regulations sufficient to protect the revenue of this state, a method of reporting, payment and collection of such tax, without the affixing of tax evidence to individual packages of cigarettes. In the event such a system is adopted no compensation for reporting for the purpose of such tax in excess of two percent (2%) of the tax due shall be allowed to any person.

Section 346. KRS 138.165 is amended to read as follows:

(1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-paid cigarettes held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.

(2) Whenever any peace officer of this state, or any representative of the ***department***[~~cabinet~~], finds any untax-paid cigarettes within the borders of this state in the possession of any person other than a licensee authorized to possess untax-paid cigarettes by the provisions of KRS 138.130 to 138.205, such cigarettes shall be immediately seized and stored in a depository to be selected by the officer or agent. At the time of seizure, the officer or agent shall deliver to the person in

whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the ***commissioner of the Department of Revenue***[~~secretary of revenue~~], Frankfort, Kentucky. Immediately upon seizure, the officer or agent shall notify the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] of the nature and quantity of the goods seized. Any seized goods shall be held for a period of twenty (20) days and if after such period no person has claimed the cigarettes as his property, the ***commissioner***[~~secretary~~] shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All proceeds, less the cost of sale, from the sale shall be paid into the Kentucky State Treasury for general fund purposes.

(3) It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the cabinet finds any vending machine within the borders of this state dispensing untax-paid cigarettes, he shall immediately seize the vending machine and store the same in a safe place selected by him. He shall thereafter proceed as provided in subsection (2) of this section and the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] shall cause the vending machine to be sold, and the proceeds applied, as set out in subsection (2) of this section.

(4) No cigarettes, on which the tax imposed by KRS 138.130 to 138.205 has not been paid, shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the ***department***[~~cabinet~~] finds any such motor vehicle, he shall immediately seize the motor vehicle and store it in a safe place specified by him. He shall thereafter proceed as provided in subsection (2) of this section and the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] shall cause the motor vehicle to be sold, and the proceeds applied, as set out in subsection (2) of this section.

(5) The owner or any person having an interest in any goods, machines or vehicles seized as provided under subsections (1) to (4) of this section may apply to the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the owner was without fault in the possession, dispensing or transportation of the untax-paid cigarettes, he shall remit the forfeiture. In the event he determines that the possession, dispensing or transportation of untax-paid cigarettes was willful or intentional he may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by him of not more than fifty percent (50%) of the value of the thing forfeited. All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.

(6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky Board of Tax Appeals in the manner provided by law.

Section 347. KRS 138.195 is amended to read as follows:

(1) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the ***department***[~~cabinet~~] as set out in this section.

(2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars ($25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.

(5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the ***department***[~~cabinet~~].

(6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette

tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured.

(7) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the ***department***[~~cabinet~~] from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.

(8) The ***department***[~~cabinet~~] may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state. Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the ***department***[~~cabinet~~] at any reasonable time shall be grounds for the revocation of any license issued by the ***department***[~~cabinet~~], after due notice and a hearing by the ***department***[~~cabinet~~]. The ***commissioner of the Department of Revenue***[~~secretary of revenue~~] may assign a time and place for such hearing and may appoint a conferee who shall conduct a hearing, receive evidence and hear arguments. Such conferee shall thereupon file a report with the ***commissioner***[~~secretary~~] together with a recommendation as to the revocation of such license. From any revocation made by the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] on such report, the licensee may prosecute an appeal to the Kentucky Board of Tax Appeals as provided by law. Any person whose license has been revoked for the willful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section, or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.

(9) No license issued pursuant to the provisions of this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.

(10) Every manufacturer located or doing business in this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit reports of such shipments as the ***department***[~~cabinet~~] may require by regulation.

(11) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.

Section 348. KRS 138.205 is amended to read as follows:

(1) Any licensee under KRS 138.195 who violates any provision of KRS 138.130 to 138.205, or any administrative regulation promulgated under them, shall become indebted to the Commonwealth in the sum of five hundred dollars ($500) for each violation. The civil penalty may be collected by action in the Franklin Circuit Court.

(2) Any manufacturer who fails to keep written records, and submit reports to the ***department***[~~cabinet~~], as required by the provisions of subsection (10) of KRS 138.195, shall become indebted to the Commonwealth in the sum of one thousand dollars ($1,000) for each violation. The penalty may be enforced by action of the Franklin Circuit Court.

(3) Any manufacturer doing business within this state without having complied with the provisions of KRS Chapter 271B as to designation of process agent shall, by so doing of business, be deemed to have made the Secretary of State its agent for the service of process in any civil action instituted in the Franklin Circuit Court for the recovery of the penalty. In any action, the complaint shall set forth the post office address of the home office of the manufacturer.

(4) Any nonresident person licensed under the provisions of KRS 138.195 shall, at the time of application for license, designate some resident of this state as a process agent for the purpose of service of civil process in any civil action originating in any court of this Commonwealth, and service upon the person so designated shall be sufficient to bring the nonresident person before any court of this Commonwealth for all purposes.

(5) Any person acting in the capacity of a licensee under the provisions of KRS 138.130 to 138.205 without having secured a license as provided in KRS 138.195 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 349. KRS 138.207 is amended to read as follows:

The ***Department of*** Revenue[~~Cabinet~~] may by regulation refund or waive the cigarette tax imposed by the provisions of this chapter on any cigarettes donated to hospitals or other eleemosynary institutions for the benefit of, or for the use of, patients or inmates of such institutions. The ***department***[~~cabinet~~] shall also prescribe the method by which cigarettes donated shall be transferred to any such institutions.

Section 350. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the ***department***[~~cabinet~~] in a manner and form prescribed by the ***department***[~~cabinet~~], supported by proper evidence which in the sole judgment of the ***department***[~~cabinet~~] substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

  (a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

  (b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

  (c) Distributing gasoline from bulk storage in this state;

  (d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;

  (e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the ***department***[~~cabinet~~], the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or

  (f) Regularly exporting gasoline or special fuels;

(3) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

  (b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;

  (c) "Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle. Diesel fuel does not include unblended kerosene, No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;

  (d) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

  (a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and

  (b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the ***Department of*** Revenue[~~ Cabinet~~] from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the ***department***[~~cabinet~~];

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle; and

(15) "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

Section 351. KRS 138.220 is amended to read as follows:

(1) An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the third decimal when computed on a per gallon basis shall be paid on all gasoline and special fuel received in this state. Except as provided by KRS Chapter 138, no other excise or license tax shall be levied or assessed on gasoline or special fuel by the state or any political subdivision of the state. The tax herein imposed shall be paid by the dealer receiving the gasoline or special fuel to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline or special fuel sold in this state. Nothing herein contained shall authorize or require the collection of the tax upon any gasoline or special fuel after it has been once taxed under the provisions of this section, unless such tax was refunded or credited.

(2) In addition to the excise tax provided in subsection (1) of this section, there is hereby levied a supplemental highway user motor fuel tax to be paid in the same manner and at the same time as the tax provided in subsection (1) of this section. Such tax shall be calculated, starting with the quarter beginning July 1, 1986, by taking the excise tax resulting from the calculation provided for in subsection (1) of this section and adjusting such tax calculated, for each quarter, to reflect decreases in the average wholesale price, as defined in KRS 138.210(10)(a). The adjustment shall be made by calculating the difference between the average wholesale price computed for the quarter beginning October 1, 1985, as provided for in subsection (3) of this section, and the average wholesale price computed for the quarter beginning July 1, 1986 and each succeeding quarter, as provided for in subsection (3) of this section. In the event of a decrease in the average wholesale price computed for the quarter beginning October 1, 1985, and ending December 31, 1985, and the average wholesale price computed for the quarter beginning July 1, 1986, and each succeeding quarter, the excise tax shall be adjusted upward for that quarter. The upward adjustment shall equal one-half (1/2) of the decrease between the two (2) quarterly periods, rounded to the third decimal. In no case shall the adjustment provided by this subsection result in a supplemental

highway user motor fuel tax greater than five cents ($0.05) on gasoline or two cents ($0.02) on special fuel and, notwithstanding any adjustment which may be calculated as provided by this subsection, in no case shall the supplemental highway user motor fuel tax for any quarter be less than the previous quarter. The supplemental highway user motor fuel tax provided by this subsection and the provisions of subsection (1) of this section shall constitute the tax on motor fuels imposed by KRS 138.220.

(3) Effective with the calendar quarter beginning July 1, 1980, the ***department***[~~cabinet~~] shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter.

(4) Dealers with a tax-paid gasoline or special fuel inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. The ***department***[~~cabinet~~] shall promulgate such rules and regulations to properly administer this provision.

Section 352. KRS 138.224 is amended to read as follows:

It shall be presumed that all untaxed motor fuels are subject to the tax levied under KRS 138.220 unless the contrary is established pursuant to KRS 138.210 to 138.500 or administrative regulations promulgated thereunder by the ***Department of*** Revenue[~~ Cabinet~~]. The tax shall be paid by the licensed dealer to the ***department***[~~cabinet~~]. The burden of proving that any motor fuel is not subject to tax shall be upon the dealer or any person who imports, causes to be imported, receives, uses, sells, stores, or possesses untaxed motor fuel in this state. Any dealer or other person who imports, causes to be imported, receives, uses, sells, stores, or possesses untaxed motor fuels but fails to comply with all statutory and regulatory restrictions applicable to the fuel shall be jointly and severally liable for payment of the tax due on the fuel. A person's liability shall not be extinguished until the tax due has been paid to the ***department***[~~cabinet~~].

Section 353. KRS 138.226 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall administer the taxes provided under KRS 138.210 to 138.500, except KRS 138.463 and 138.4631 and may prescribe, adopt and enforce administrative regulations relating to the administration and enforcement thereof.

(2) The ***department***[~~cabinet~~] shall, upon the request of the officials to whom are entrusted the enforcement of the motor fuels tax law of any other state, the United States, the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the manufacture, receipt, sale, use, transportation, shipment or delivery by any person of motor fuels, provided such other state or states provide for the furnishing of like information to this state.

Section 354. KRS 138.230 is amended to read as follows:

Every dealer receiving gasoline or special fuel in this state shall keep, and preserve for five (5) years, an accurate record of all receipts and of all production, refining, manufacture, compounding, use, sale, distribution and delivery of gasoline and special fuel, together with invoices, bills of lading and other pertinent records and papers required by the ***Department of*** Revenue[~~ Cabinet~~]. Every person purchasing gasoline or special fuel from a dealer for resale shall keep, and preserve for a period of five (5) years, a record of all such gasoline or special fuel so purchased and sold or used, and the amount of tax paid to the dealers as part of the purchase price, together with delivery tickets, invoices, bills of lading and such other records as the ***department***[~~cabinet~~] shall require.

Section 355. KRS 138.240 is amended to read as follows:

(1) Every gasoline dealer and every special fuels dealer, or the treasurer or other proper officer or agent of every such dealer, shall, by the twenty-fifth day of each month, transmit to the ***Department of*** Revenue[~~ Cabinet~~] reports on the forms the ***department***[~~cabinet~~] may prescribe, of the total number of gallons of gasoline and special fuel received in this state during the next preceding calendar month. This report shall include the following information:

    (a) An itemized statement of the number of gallons received that have been produced, refined, manufactured, or compounded by the dealer in this state during the next preceding calendar month; and

    (b) An itemized statement of the number of gallons received by the dealer in this state from any source during the next preceding calendar month, as shown by shippers' invoices, other than the gasoline and special fuel falling within the provisions of paragraph (a) of this subsection, together with a statement showing the date of receipt, the name of the person from whom purchased, the date of receipt of each shipment, the point of origin and the point of destination, the quantity of each purchase or shipment, the name of the carrier, the initials and number of each tank car, the date of receipt, and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge, or vessel if shipped by water.

(2) The reports required by subsection (1) of this section shall also contain an itemized statement of the number of gallons received by the dealer during the preceding calendar month of:

    (a) Gasoline and special fuels sold to the United States government, including sales or deliveries to others who sell or deliver the gasoline or special fuels to the United States government, for use exclusively in equipment or vehicles owned or leased by the United States government;

    (b) Gasoline and special fuels sold for delivery in this state in transport truck, tank car, or cargo lots to licensed bonded dealers. The statement shall give a record of all such transport truck, tank car, or cargo sales, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge, or vessel, and the number of gallons contained therein if shipped by water, and the name of the person to whom sold, point of shipment, and point of delivery;

(c) Gasoline and special fuels lost through accountable losses;

(d) Gasoline and special fuel exported from this state to any other state in transport truck, tank car or cargo lots;

(e) Gasoline or special fuel delivered upon or immediately adjacent to a river or stream, if:

1. The gasoline or special fuel is or will be delivered into the fuel supply tank of a commercial ship or vessel which has a valid certificate of documentation issued by the United States Coast Guard; and

2. All the fuel will be used exclusively in the operation of a commercial ship or vessel.

(f) Special fuel delivered to a railroad company principally engaged in the commercial transportation of property for others as a common carrier or in the conveyance of persons for hire, if the railroad company is the holder of a Kentucky motor fuels tax refund permit and certifies that the fuel is to be used exclusively for the purpose of powering locomotives and unlicensed company vehicles or equipment for nonhighway use. Railroad company as used herein shall not include any company described in KRS 136.120(4)(a) in effect on August 1, 1988; and

(g) Special fuels used in unlicensed vehicles or equipment by licensed special fuels dealers for nonhighway purposes related to the distribution of gasoline or special fuels to others.

(3) All gasoline and special fuel gallons received or distributed by a dealer from marine terminal, refinery or pipeline terminal storage in this state shall be reported at sixty (60) degrees Fahrenheit.

Section 356. KRS 138.250 is amended to read as follows:

(1) Any person who produces, refines, manufactures or compounds gasoline or special fuel in this state shall, by the twenty-fifth day of each month, file a report with the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by it, covering the next preceding calendar month, showing the number of gallons of gasoline and special fuels at sixty (60) degrees Fahrenheit produced, refined, manufactured or compounded, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and received and the number of gallons withdrawn at sixty (60) degrees Fahrenheit from refinery storage and shipped to points outside of this state, and the number of gallons at sixty (60) degrees Fahrenheit withdrawn from refinery storage and shipped to points within this state upon which the tax has not been paid. This report shall give in detail such information as the ***department***[~~cabinet~~] may require, regarding each separate shipment, the date of shipment, the number of gallons at sixty (60) degrees Fahrenheit in each shipment, the name of owner and license number of truck if shipped by transport truck, the initial and number of tank car if shipped by rail, the name and owner of barge if shipped by water, the name and address of person to whom shipped, the point of shipment, the point of destination and the name of carrier to whom delivered for transportation to destination.

(2) Any person who imports and stores gasoline or special fuel in any marine or pipeline terminal storage in this state, shall by the twenty-fifth day of the month, file a report with the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by it, covering the next preceding calendar month, showing the number of gallons of gasoline and special fuels at sixty (60) degrees Fahrenheit unexported and stored, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and received, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and shipped to points outside of this state, and the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and shipped to points within this state, upon which the tax has not been paid. This report shall give in detail such information as the ***department***[~~cabinet~~] may require, regarding each separate shipment, the date of shipment, the number of gallons at sixty (60) degrees Fahrenheit in each shipment, the name of owner and license number of truck if shipped by transport truck, the initial and number of tank car if shipped by rail, the name and owner of barge if shipped by water, the name and address of person to whom shipped, the point of shipment and point of destination, and the name of carrier to whom delivered for transportation to destination.

(3) There shall be allowed a monthly deduction for evaporation, shrinkage or unaccountable losses while in storage, of that number of gallons equal to the actual loss of gasoline or special fuel so sustained out of the total number of gallons of gasoline or special fuel stored in any marine terminal, refinery or pipeline terminal, except that such deduction may not in any event exceed three-fourths of one percent of the total number of gallons of gasoline or special fuel stored in any marine terminal, refinery or pipeline terminal. The remaining gasoline and special fuel placed in storage must be fully accounted for as in physical inventory, accountable loss, withdrawn for export or withdrawn from storage and received for taxable purposes.

(4) The number of gallons of gasoline or special fuel added to marine, pipeline or refinery storage shall be determined by the ***department***[~~cabinet~~] by actual measurement of terminal storage tanks in the manner it deems necessary.

Section 357. KRS 138.260 is amended to read as follows:

Every transportation company and every other person transporting gasoline or special fuel from without this state to points within this state, or between points within this state, shall report to the ***Department of*** Revenue[~~ Cabinet~~] on forms prescribed by the ***department***[~~cabinet~~]. The reports shall give the name and address of each person to whom deliveries of gasoline or special fuel have been made, the name and address of the original consignee if deliveries are made to any other than the original consignee, the name and address of the consignor, the point of origin, the point of delivery, the date of delivery, the number and initials of each tank car if shipped by rail, the quantity of each shipment and delivery in gallons, the manner of shipment and delivery, and such other information as the ***department***[~~cabinet~~] may require relative to the transportation and delivery of such fuel. The reports shall include intracity switching movements in tank cars or otherwise. The reports shall be made under oath and shall be filed by the twenty-fifth day of each month, covering all such deliveries made within this state during the preceding calendar month.

Section 358. KRS 138.270 is amended to read as follows:

(1) (a) From the total number of gallons of gasoline and special fuel received by the dealer within this state during the next preceding calendar month, deductions shall be made for the total number of gallons received by the dealer within this state that were sold or otherwise disposed of during the next preceding calendar month as set forth in subsection (2) of KRS 138.240.

(b) To cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, and handling and reporting the tax, each dealer shall be allowed compensation equal to two and one-fourth percent (2.25%) of the net tax due the Commonwealth pursuant to KRS 138.210 to 138.500 before all allowable tax credits, except the credit authorized pursuant to KRS 138.358. No compensation shall be allowed if the completed tax return and payment are not submitted to the ***Department of*** Revenue[~~ Cabinet~~] within the time prescribed by KRS 138.210 to 138.500.

(2) The tax imposed by KRS 138.220(1) and (2) shall be computed on the number of gallons remaining after the deductions set forth in subsection (1) of this section have been made, and shall constitute the amount of tax payable for the next preceding calendar month.

(3) Notwithstanding any other provision of this chapter to the contrary, any person who shall remit to the ***department***[~~cabinet~~], by the twenty-fifth day of the next month, an estimated tax due amount equal to not less than ninety-five percent (95%) of his tax liability, as finally determined for the report month, shall not be required to file the monthly reports required by this chapter until the last day of the month following the report month, and shall be permitted to claim as a credit against the tax liability shown due on the report the estimated tax due amount so paid.

Section 359. KRS 138.280 is amended to read as follows:

(1) The reports required by KRS 138.240 shall be accompanied by a certified or cashier's check, payable to the State Treasurer, for the amount of tax due for the preceding calendar month, computed as provided in KRS 138.270; except that the ***department***[~~cabinet~~] may waive this requirement and accept the dealer's check where the dealer is of sound financial condition and has established a good record of compliance with the requirements of KRS 138.210 to 138.340.

(2) By virtue of the allowance provided by KRS 138.270 to dealers for collecting and remitting the tax, every dealer is a trust officer of the state.

Section 360. KRS 138.300 is amended to read as follows:

No dealer or other person shall fail or refuse to make the returns and pay the tax prescribed by KRS 138.220 to 138.280, or refuse to permit the ***Department of Revenue***[~~revenue cabinet~~] or its representatives appointed by the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] in writing to examine his records, papers, files and equipment pertaining to the taxable business. No person shall make an incomplete, false or fraudulent return, or do or attempt to do anything to avoid a full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due. No person shall fail to keep and preserve records of gasoline and special fuel manufactured, transported, received, used, sold or delivered or to make reports as required by KRS 138.230 to 138.280.

Section 361. KRS 138.310 is amended to read as follows:

(1) No person shall refine, produce, distill, manufacture, blend, compound, receive, use, sell, transport, store, or distribute any gasoline or special fuel upon which the tax due has not been paid or assumed or engage in the sale, storage or transportation of any gasoline or special fuel within this state upón which the tax has not been paid unless he is the holder of an uncanceled license issued by the ***Department of*** Revenue[~~ Cabinet~~] to engage in the business.

(2) Any transporter, other than a regularly licensed gasoline or special fuel dealer, transporting gasoline or special fuel by motor vehicle shall have plainly painted on the vehicle the name, address, and permit number of the transporter.

(3) Any person who engages in the business of refining, producing, distilling, manufacturing, blending, compounding, receiving, using, selling, transporting, storing, or distributing gasoline or special fuel in this state as a dealer, storage operator, or transporter without holding an uncanceled license to engage in that business, or who without the license, refines, produces, distills, manufacturers, blends, compounds, receives, uses, sells, transports, stores, or distributes any gasoline or special fuel upon which the tax imposed by KRS 138.220 has not been reported and paid, shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 362. KRS 138.320 is amended to read as follows:

(1) To procure the license required by KRS 138.310, every dealer or transporter so required shall file with the ***Department of*** Revenue[~~ Cabinet~~] an application in such form and containing such information as the ***department***[~~cabinet~~] may deem necessary.

(2) If the dealer or transporter is a corporation organized under the laws of another state, it shall file with its application a certified copy of the certificate or license issued by the Secretary of State of this state showing that the corporation is authorized to transact business in this state.

(3) At the time of filing application for a license, a bond of the character stipulated and in the amount provided for in KRS 138.330 shall be filed with the ***department***[~~cabinet~~]. No license shall be issued upon any application unless accompanied by this bond.

(4) If application for such a license is filed by any person whose license has at any time previously been canceled for cause by the ***department***[~~cabinet~~], or if the ***department***[~~cabinet~~] is of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge for the real person in interest whose license or registration has previously been canceled for cause by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] may, after a hearing of which the applicant has been given five (5) days' notice in writing, and in which the applicant shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) The application in proper form having been accepted for filing, and the bond having been accepted and approved, the ***department***[~~cabinet~~] shall issue to the applicant a license, subject to cancellation as provided by KRS 138.340. The license shall not be assignable, and shall be valid only for the person in whose name it is issued, and shall be displayed conspicuously in the principal place of business of the dealer in this state.

(6) The ***department***[~~cabinet~~] shall keep and file all applications and bonds, with an alphabetical index thereof, together with a record of all licensed dealers or transporters. The ***department***[~~cabinet~~] shall publish and keep currently up to date a list of licensed dealers and transporters, and transmit a copy of list and all revisions thereof to all licensed dealers and transporters.

(7) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

Section 363. KRS 138.321 is amended to read as follows:

Any gasoline dealer or special fuels dealer having a license revoked for the violation of any of the provisions contained in KRS Chapter 138 may, within the discretion of the ***department***[~~cabinet~~], be denied the issuance of a gasoline dealer or special fuels dealer license, and any such licensee shall not have an interest in any such license, either disclosed or undisclosed, whether as an individual, partnership, corporation or otherwise.

Section 364. KRS 138.330 is amended to read as follows:

(1) Every dealer or transporter required to be licensed under KRS 138.310 shall file with the ***Department of*** Revenue[~~Cabinet~~] a financial instrument in an amount not to exceed three (3) months' estimated liability as computed by the ***department***[~~cabinet~~] or five thousand dollars ($5,000) whichever is greater, or in the case of a new licensee in the minimum amount of five thousand dollars ($5,000) until such time as an estimated three (3) months' liability can be established, provided that the maximum amount of any financial instrument may be reduced to an amount sufficient in the opinion of the ***department***[~~cabinet~~], considering the financial rating and reputation of the company, to insure payment to the ***department***[~~cabinet~~] of the amount of tax, penalties and interest for which the dealer or transporter may become liable. The financial instrument shall be on a form and with a surety approved by the ***department***[~~cabinet~~]. The dealer or transporter shall be the principal obligor and the state the obligee. The financial instrument shall be conditioned upon the prompt filing of true reports by the dealer and transporter and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(2) If liability upon the financial instrument is discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the ***department***[~~cabinet~~] any surety on the financial instrument has become unsatisfactory or unacceptable, the ***department***[~~cabinet~~] may require the licensee to file a new financial instrument with satisfactory sureties in the same amount, failing which the ***department***[~~cabinet~~] shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If a new financial instrument is furnished as provided above, the ***department***[~~cabinet~~] shall cancel and surrender the financial instrument for which the new financial instrument is substituted.

(3) If upon hearing, of which the licensee shall be given five (5) days' notice in writing, the ***department***[~~cabinet~~] decides that the amount of the existing financial instrument is insufficient to insure payment to the state of the amount of tax, penalties, and interest for which the licensee is or may become liable, the licensee shall, upon the written demand of the ***department***[~~cabinet~~], file an additional financial instrument in the same manner and form with a surety thereon approved by the ***department***[~~cabinet~~], in any amount determined by the ***department***[~~cabinet~~] to be necessary, failing which the ***department***[~~cabinet~~] shall cancel the license of the licensee in accordance with the provisions of KRS 138.340.

(4) Any surety on a financial instrument furnished as required by this section shall be released from all liability to the state accruing on the financial instrument after the expiration of sixty (60) days from the date upon which the surety has lodged with the cabinet a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The ***department***[~~cabinet~~] shall promptly, upon receipt of a request, notify the licensee who furnished the financial instrument, and unless the licensee, before the expiration of the sixty (60) day period, files with the ***department***[~~cabinet~~] a new financial instrument with a surety satisfactory to the ***department***[~~cabinet~~] in the amount and form prescribed in this section, the ***department***[~~cabinet~~]

shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If an approved new financial instrument is filed, the ***department***[~~cabinet~~] shall cancel and surrender the financial instrument for which the new bond is substituted.

Section 365. KRS 138.340 is amended to read as follows:

(1) If any dealer or transporter required to be licensed under KRS 138.310 files a false report of the data or information required by KRS 138.210 to 138.280, or fails, refuses or neglects to file the reports required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210(2), or violates any other provision of this chapter, the license of the dealer or transporter may be revoked by the ***Department of*** Revenue[~~ Cabinet~~]. The licensee shall be notified by certified or registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Rules of Civil Procedure, or it may be served in that manner by an employee of the ***Department of*** Revenue[~~ Cabinet~~]. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation by the ***Department of*** Revenue[~~ Cabinet~~] to the Kentucky Board of Tax Appeals as provided by law, subject to the condition that the licensee has made bond sufficient in the opinion of the ***Department of*** Revenue[~~ Cabinet~~] to protect the Commonwealth from loss of revenue.

(2) The ***department***[~~cabinet~~] may cancel the license:

(a) Upon request in writing from the licensee, the cancellation to become effective sixty (60) days from the date of receipt of the request; or

(b) Upon determination that the licensee has had no reportable activity in Kentucky for at least the immediately preceding six (6) consecutive monthly reporting periods.

Section 366. KRS 138.341 is amended to read as follows:

(1) When gasoline or special fuel on which the tax has been paid pursuant to the provisions of KRS 138.210 to 138.340 has been used for the purpose of operating any aircraft engaged in the transportation of persons or property, the purchaser of the liquid fuel so used shall be reimbursed for the tax paid. No tax shall be refunded except that paid upon the fuel used exclusively in aircraft motors.

(2) No person shall be entitled to a refund hereunder unless he shall have first filed with the ***Department of*** Revenue[~~ Cabinet~~] a bond with approved surety in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the ***Department of*** Revenue[~~ Cabinet~~], conditioned upon faithful compliance with this section and KRS 138.342 and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) The right to receive any refund pursuant to subsection (1) of this section shall be assignable by the purchaser to the seller of the gasoline or special fuel if the seller has posted a bond with the ***department***[~~cabinet~~] and the aviation gasoline or special fuel purchased by the assignor is delivered directly into the fuel tank of aircraft owned or operated by him or his authorized agent. Any assignment shall be evidenced by noting upon the face and all copies of the retail sale invoice the following: "TAX REFUND ASSIGNED TO SELLER. Signed: (Purchaser or Agent.)"

Section 367. KRS 138.342 is amended to read as follows:

(1) Applications for refund pursuant to KRS 138.341 shall be made to the ***department***[~~cabinet~~] on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for the refund of tax paid on aviation motor fuel used during the calendar quarter or calendar year. Each application for a refund shall show the number of gallons of aviation motor fuel purchased during the preceding month; the date and quantity of each purchase; the vendor from whom the fuel was purchased; the number of gallons on which refund is claimed; and other information the ***department***[~~cabinet~~] may require.

(2) The ***department***[~~cabinet~~] shall audit the application and make other investigation it deems necessary to determine whether it constitutes a proper claim. When the ***department***[~~cabinet~~] is satisfied that a refund is proper, it shall authorize the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(3) When the ***department***[~~cabinet~~] finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the ***department***[~~cabinet~~] shall refuse to grant any refunds to the person making the false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of the finding.

Section 368. KRS 138.344 is amended to read as follows:

(1) Except as otherwise provided in KRS 138.220 to 138.500, any person who shall purchase gasoline or special fuel, on which the tax as imposed by KRS 138.220 has been paid, for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, or who shall purchase special fuels, on which the tax as imposed by KRS 138.220 has been paid, for consumption in unlicensed vehicles or equipment for nonhighway purposes shall be reimbursed for the tax so paid on the gasoline or special fuel. No refund shall be authorized unless applications and all necessary information are filed with the ***department***[~~cabinet~~] on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of the tax paid on the fuel. In lieu of the tax refund procedure, the tax on special fuels and the tax on gasoline

used for the purpose of operating or propelling stationary engines or tractors for agricultural purposes may be credited by the dealer to the purchaser as provided in KRS 138.358. The dealer and the purchases shall be subject to the same rules, conditions, and responsibilities as provided in KRS 138.344 to 138.355. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(2) The information to be required from the permit holder, by the ***department***[~~cabinet~~], in order that the refund may be allowed, shall be as follows:

  (a) Name and address of permit holder .... permit number .....

  (b) Total number of gallons purchased .... and total purchase price ..... (Invoices to be attached to refund application.)

  (c) Total number of gallons used on highways .....

  (d) Total number of gallons on which refund is claimed ..... (Line b minus line c.)

  (e) Other information as the ***department***[~~cabinet~~] may require to reasonably protect the revenues of the Commonwealth.

Section 369. KRS 138.345 is amended to read as follows:

No person shall secure a refund of tax under KRS 138.344 unless the person is the holder of an unrevoked refund permit issued by the ***Department of*** Revenue[~~ Cabinet~~] before the purchase of the gasoline or special fuel, which permit shall entitle the person to make application for a refund under KRS 138.344 to 138.355. To procure a permit, every person shall file with the ***department***[~~cabinet~~] an application under oath, on forms furnished by the ***department***[~~cabinet~~], setting forth the information incident to the refunding of the tax paid on gasoline or special fuel as the ***department***[~~cabinet~~] may require. The properly completed and signed application shall be filed with the ***department***[~~cabinet~~] on or before the date the permit, if approved by the ***department***[~~cabinet~~], is to become effective.

Section 370. KRS 138.346 is amended to read as follows:

The ***department***[~~cabinet~~] may require the applicant to execute a corporate surety bond to be approved by the ***department***[~~cabinet~~], conditioned upon the payment of all taxes, penalties and fines for which such applicant may become liable under KRS 138.344 to 138.355. Such bond shall be in an amount equal to an applicant's one (1) year estimated refund claim, but not less than one thousand dollars ($1,000).

Section 371. KRS 138.347 is amended to read as follows:

(1) Each licensed gasoline and special fuel dealer shall, in accordance with the ***department's***[~~cabinet's~~] requirements, keep at his principal place of business in this state a complete record of all such gasoline and special fuel sold by him under gasoline refund invoices provided for in KRS 138.351, which records shall give the date of each such sale, the number of gallons sold, the name of the person to whom sold and the sale price.

(2) Every person to whom a refund permit has been issued under KRS 138.345 shall, in accordance with the ***department's***[~~cabinet's~~] requirements, keep at his residence or principal place of business in this state a record of each purchase of gasoline and special fuel from a licensed dealer or the dealer's authorized agent, the number of gallons purchased, the name of the seller, and the date of purchase.

(3) The records required to be kept under subsections (1) and (2) of this section shall at all reasonable hours be subject to inspection by the ***department***[~~cabinet~~] or by any person duly authorized by it. Such records shall be preserved and shall not be destroyed until five (5) years after the date the gasoline and special fuel to which they relate was sold and purchased.

Section 372. KRS 138.348 is amended to read as follows:

(1) The ***department***[~~cabinet~~] may require any dealer or any dealer's authorized agent to identify refund gasoline or special fuel sold by him by adding thereto any chemical or substance, which shall be furnished by the cabinet and used in the manner as prescribed by the ***department***[~~cabinet~~].

(2) The refund permit holder shall receive and store all the gasoline and special fuel in containers plainly marked with distinguishing letters "Refund Motor Fuel," or comparable letters prescribed by the ***Department of*** Revenue[~~ Cabinet~~], and shall keep the containers on his premises accessible to agents of the ***department***[~~cabinet~~] and separate from other gasoline and special fuel stored on his premises.

(3) The ***Department of*** Revenue[~~ Cabinet~~] may, within its discretion, issue a refund permit for a portable storage facility if the applicant satisfies the cabinet that the facility will be used exclusively for the purpose of fueling unlicensed vehicles or equipment at multiple locations for nonhighway purposes, and fueling the vehicles or equipment from a nonportable facility would not be practical.

(4) Every refund permit holder who uses on the public highways motor fuel of the type for which refund is claimed shall keep detailed records of all the motor fuel acquired, monthly odometer readings of all licensed motor vehicles owned or operated by the holder which use the fuel, and other records the ***Department of*** Revenue[~~ Cabinet~~] may, in writing, require to protect the revenues of the Commonwealth.

(5) Agents of the ***department***[~~cabinet~~] may go upon the premises of any permit holder or of any licensed gasoline or special fuel dealer or his authorized agent to make inspections to ascertain any matter connected with the operation of KRS

138.344 to 138.355 or the enforcement thereof. No agent shall enter the dwelling of any person without the occupant's consent or the authority from a court of competent jurisdiction.

Section 373. KRS 138.351 is amended to read as follows:

(1) When gasoline or special fuel is sold to a person who shall claim to be entitled to refund under KRS 138.344, the licensed dealer or his duly authorized agent who sells the gasoline or special fuel shall make out in duplicate a gasoline or special fuel refund invoice supplied or approved in writing by the ***department***[~~cabinet~~], which invoice shall have printed thereon that the liability to the Commonwealth of Kentucky for the excise tax imposed under KRS 138.220 with respect to the gasoline or special fuel has been assumed by the seller and that the excise tax has already been paid or will be paid by the seller when the same shall become payable, a statement setting forth the name and address of the purchaser, the number of gallons of gasoline or special fuel so sold, the proposed use for which the gasoline or special fuel is purchased, and other information as the ***department***[~~cabinet~~] shall require. The original gasoline or special fuel refund invoice shall be given to the purchaser, and the duplicate shall be retained by the seller.

(2) The refund permit holder shall file with the ***department***[~~cabinet~~] an application for refund on forms furnished by the ***department***[~~cabinet~~], stating the quantity of gasoline and special fuel used for the purposes as set out in KRS 138.344. The application shall be accompanied by the original invoice, or certified copy thereof, showing the purchase, and, if required by the ***department***[~~cabinet~~], evidence of payment therefor. When the ***department***[~~cabinet~~] is satisfied that a refund is proper, it shall authorize the tax paid to be refunded as other refunds are made; and the amount refunded shall be deducted from gasoline or special fuel tax receipts as appropriate.

(3) The right to receive any refund under the provisions of this section shall not be assignable, except to the executor or administrator, or to the receiver, trustee in bankruptcy, or assignee in insolvency proceedings of the person entitled thereto.

(4) Interest on refunds authorized under the provisions of this section shall be paid at the tax interest rate, as defined in KRS 131.010(6), and shall begin to accrue sixty (60) days after the postmark date of the application for refund.

Section 374. KRS 138.353 is amended to read as follows:

If any excise taxes on gasoline or special fuel be erroneously refunded, the ***department***[~~cabinet~~] shall issue an assessment for the amount erroneously refunded. The refund error shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Section 375. KRS 138.354 is amended to read as follows:

(1) No person shall make a false or fraudulent statement in an application for a refund permit or in a gasoline or special fuel refund invoice, or in an application for a refund of any taxes as set out in KRS 138.344 to 138.355; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent statement or claim; or having bought gasoline or special fuel under the provisions of KRS 138.344 to 138.355, shall use or permit such gasoline or special fuel or any part thereof to be used for any purpose other than as provided in KRS 138.344.

(2) The refund permit of any person who shall violate any provision of subsection (1) of this section may be revoked by the ***Department of*** Revenue[~~ Cabinet~~] subject to appeal to the Kentucky Board of Tax Appeals as provided by law, and may not be reissued until two (2) years have elapsed from the date of such revocation.

(3) The refund permit of any person who shall violate any provision of KRS 138.344 to 138.355, other than those contained in subsection (1) of this section, may be suspended by the ***Department of*** Revenue[~~ Cabinet~~] for any period in its discretion not exceeding six (6) months with the right of appeal to the Kentucky Board of Tax Appeals.

(4) If a dealer violates any provision of KRS 138.344 to 138.355, his privilege to sign refund invoices may be suspended by the ***Department of*** Revenue[~~ Cabinet~~] for a period of not more than two (2) years subject to appeal to the Kentucky Board of Tax Appeals. No refund shall be made on gasoline or special fuel purchased from a dealer while a suspension of his privilege to sign refund invoices is in effect.

Section 376. KRS 138.355 is amended to read as follows:

If the ***department***[~~cabinet~~] reasonably believes that any dealer or refund permit holder has been guilty of a violation of KRS 138.344 to 138.355, which would subject the dealer or permit holder to a suspension or revocation of his license or permit under the provisions of subsections (2), (3) or (4) of KRS 138.354, said dealer or permit holder may be cited by the ***department***[~~cabinet~~] to show cause at a public hearing before the ***Department of*** Revenue[~~ cabinet~~] why his license or permit should not be suspended or revoked. The dealer or refund permit holder shall be notified by certified or registered letter. The letter shall inform the dealer or refund permit holder of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license or permit may be revoked or suspended. The hearing shall be set at least five (5) days after the receipt of the letter. Any aggrieved dealer or refund permit holder may appeal any order entered to the Kentucky board of tax appeals as provided by law, subject to the condition that he make bond sufficient in the opinion of the ***department***[~~cabinet~~] to protect the Commonwealth from loss of revenue.

Section 377. KRS 138.358 is amended to read as follows:

(1) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a tank having no dispensing outlet and used exclusively to heat a personal residence, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively to heat the

personal residence to which it is delivered. No person so certifying shall use the special fuel for any other purpose. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized herein to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth.

(2) Any special fuels dealer who sells gasoline or special fuels, on which the tax imposed by KRS 138.220 has been paid, exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes. No person so certifying shall use gasoline or the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized herein to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth.

(3) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a nonhighway use storage tank of a resident nonprofit religious, charitable, or educational organization or state or local governmental agency which has qualified for exemption from Kentucky sales and use tax pursuant to KRS 139.470(7) or 139.495 shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement certifying the purchaser's sales and use tax purchase exemption authorization issued pursuant to KRS Chapter 139. No organization or agency so certifying shall use or allow the use of any nonhighway special fuel so acquired for any purpose other than fueling unlicensed vehicles or equipment for nonhighway purposes. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized herein to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth.

(4) Any special fuels dealer who sells special fuels, on which the tax imposed by KRS 138.220 has been paid, which shall be used exclusively for consumption in unlicensed vehicles or equipment for nonhighway purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for nonhighway purposes. No person making the certification shall use the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized in this subsection to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth. This credit shall not apply to special fuels taxes subject to a refund under KRS 138.445.

Section 378. KRS 138.445 is amended to read as follows:

(1) Except as provided in KRS 138.240(2)(e), any person who buys any liquid fuel for the purpose of dispensing it directly into fuel tanks installed in or attached to watercraft, for the purpose of operating or propelling watercraft, shall be reimbursed for the tax paid by him pursuant to the provisions of KRS 138.220 to 138.340 upon presenting to the ***department***[~~cabinet~~] an application accompanied by the original invoices showing the payment of the purchases, including the liquid fuel tax. The application shall set forth the total amount of the liquid fuel purchased and used by the applicant in the operation or propulsion of watercraft.

(2) (a) When liquid fuel on which the tax has been paid pursuant to the provisions of KRS 138.220 to 138.340 has been used for the purpose of operating any watercraft and was delivered directly to the fuel tanks installed in or attached to the watercraft, the purchaser of the liquid fuel so used shall be reimbursed for the tax paid. No tax shall be refunded except that paid upon the fuel used exclusively in watercraft motors; and

(b) No person shall be entitled to a refund hereunder unless he shall have first filed with the ***department***[~~cabinet~~] a bond with approved surety in the amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the ***department***[~~cabinet~~] and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) All refund claims authorized by this section shall be filed with the ***department***[~~cabinet~~] on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of the tax paid on the fuel. If the application for refund is mailed to the ***department***[~~cabinet~~], the date of mailing as shown by the postmark shall be taken as the time and date of filing with the ***department***[~~cabinet~~].

(4) Refunds shall be made only on gasoline and special fuels purchased by locations designated by the ***department***[~~cabinet~~]. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

Section 379. KRS 138.446 is amended to read as follows:

(1) City and suburban bus companies and taxicab companies operating under a certificate of convenience and necessity issued pursuant to KRS Chapter 281, taxicab companies regulated by a consolidated local government organized under KRS Chapter 67C or by an urban-county government organized under KRS Chapter 67A, holders of a nonprofit bus certificate as provided by KRS 281.619, and senior citizen programs which utilize Title III funds of the Older Americans Act in the provision of transportation services shall be entitled to a refund of seven-ninths (7/9) of the amount of KRS Chapter 138 taxes paid on motor fuels used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to a refund pursuant to this section unless he shall have first filed with the ***department***[~~cabinet~~]

a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) to be determined by the ***department***[~~cabinet~~], conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) Applications for refund shall be filed with the ***department***[~~cabinet~~] on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of tax paid on motor fuel used by buses or taxicabs. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses or taxicabs; the date and quantity of each purchase; the vendor from whom the fuel was purchased; the number of gallons on which refund is claimed; and other information the ***department***[~~cabinet~~] may require. Invoices shall be attached to applications from taxicab companies.

(4) The ***department***[~~cabinet~~] may require any gasoline dealer or any dealer's authorized agent to identify gasoline sold by him for taxicab use by adding any chemical or substance, which shall be furnished by the ***department***[~~cabinet~~] and used in the manner as prescribed by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] also may require that the dealer keep a complete record of all the gasoline sold by him, which records shall give the date of each sale, the number of gallons sold, the name of the person to whom sold, and the sale price.

(5) The ***department***[~~cabinet~~] shall audit the application and make any other investigation it deems necessary to determine whether it constitutes a proper claim. When the ***department***[~~cabinet~~] is satisfied that a refund is proper, it shall authorize seven-ninths (7/9) of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(6) When the ***department***[~~cabinet~~] finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the ***department***[~~cabinet~~] shall refuse to grant any refunds to the person making the false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of the findings.

(7) The ***department***[~~cabinet~~] may prescribe, promulgate and enforce administrative regulations relating to the administration and enforcement of this section.

(8) The refund provided for in this section shall be effective on motor fuel purchased on or after July 1, 1978.

Section 380. KRS 138.447 is amended to read as follows:

(1) A dealer may elect to be exempted from the provisions of KRS 138.330, subject to the following provisions:

(a) An election for exemption shall be made on an annual basis and shall be for a calendar year;

(b) At the conclusion of the year, the election for exemption shall continue for the next calendar year unless the dealer notifies the ***Department of*** Revenue[~~ Cabinet~~] of the dealer's intention to void the election for exemption by January fifteenth of the next calendar year; and

(c) If the election for exemption is voided, the provisions of KRS 138.330 immediately apply.

(2) (a) A dealer electing to be exempted from the provisions of KRS 138.330 shall file with the ***department***[~~cabinet~~] a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the ***department***[~~cabinet~~], or five thousand dollars ($5,000), whichever is greater.

(b) The financial instrument shall be on a form and with a surety to do business in this state.

(c) The dealer shall be the principal obligor and the state the obligee.

(d) The financial instrument shall be conditioned upon the prompt filing of true reports and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(3) (a) In addition to the provisions of KRS 138.210 to 138.340 the dealer shall certify to the ***department***[~~cabinet~~] no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month.

(b) The certification shall be submitted via an electronic method acceptable by both the dealer and the cabinet.

(c) By certifying the amount of tax which is to be remitted to the ***department***[~~cabinet~~], the dealer agrees to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

(d) If the dealer fails to certify the amount of tax collected as prescribed by this section or does not perform the electronic fund transfer, the ***department***[~~cabinet~~] may immediately make demand on the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340.

Section 381. KRS 138.448 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to

138.446. Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every person holding a corporate office at the time the tax becomes or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by KRS 138.210 to 138.446 at the time the tax imposed becomes or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and 131.990.

(a) The provisions of this section shall not apply if a corporation on an annual basis elects to be exempt from the provisions of KRS 138.224 by:

1. Filing with the ***department***[~~cabinet~~] a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the ***department***[~~cabinet~~], or five thousand dollars ($5,000), whichever is greater;

2. Certifying by an electronic method acceptable by both the dealer and the ***department***[~~cabinet~~] no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month; and

3. Agreeing to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

For the purpose of this paragraph, a "financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

(b) If a dealer fails to certify the amount of tax collected or does not perform the electronic fund transfer as prescribed by paragraph (a) of this subsection, the ***department***[~~cabinet~~] may immediately make demand of the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340, and the provisions of this section shall apply.

(2) Notwithstanding any other provision of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to 138.446. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the tax becomes or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by KRS 138.210 to 138.446 at the time the tax becomes or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and KRS 131.990.

(a) The provisions of this section shall not apply if a limited liability company or a registered limited liability partnership on an annual basis elects to be exempt from the provisions of KRS 138.224 by:

1. Filing with the ***department***[~~cabinet~~] a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the ***department***[~~cabinet~~], or five thousand dollars ($5,000), whichever is greater;

2. Certifying by an electronic method acceptable by both the dealer and the ***department***[~~cabinet~~] no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month; and

3. Agreeing to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

For the purpose of this paragraph, a "financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

(b) If a dealer fails to certify the amount of tax collected or does not perform the electronic fund transfer prescribed by paragraph (a) of this subsection, the ***department***[~~cabinet~~] may immediately make demand of the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340, and the provisions of this section shall apply.

Section 382. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the

succeeding calendar year, if the same model and make is being offered for sale by local dealers;

(2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;

(3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;

(4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;

(5) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(6) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(7) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;

(8) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;

(9) "Total consideration given" means the amount given, valued in money, whether received in money or otherwise, at the time of purchase or at a later date, including consideration given for all equipment and accessories, standard and optional, as attested to in a notarized affidavit signed by both the buyer and the seller. The signatures of the buyer and seller shall be individually notarized. "Total consideration given" shall not include:

(a) Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

(b) Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and

(c) The value of any items that are not equipment or accessories including but not limited to extended warranties, service contracts, and items that are given away as part of a promotional sales campaign;

(10) "Trade-in allowance" means the value assigned by the seller of a motor vehicle to a motor vehicle offered in trade by the purchaser as part of the total consideration given by the purchaser and included in the notarized affidavit attesting to total consideration given;

(11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;

(12) "Retail price" of motor vehicles shall be determined as follows:

(a) For new, dealer demonstrator, previous model year motor vehicles and U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in allowance as attested to in a notarized affidavit. If a notarized affidavit signed by both the buyer and seller is not available to establish total consideration given, "retail price" shall be:

1. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or

2. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds; and

3. "Retail price" shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities;

(b) For historic motor vehicles, "retail price" shall be one hundred dollars ($100);

(c) For used motor vehicles being registered by a new resident for the first time in Kentucky whose values appear in the automotive reference manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~], "retail price" shall be the average trade-in value given in the reference manual;

(d) For the older used motor vehicles being registered by a new resident for the first time in Kentucky whose values no longer appear in the automotive reference manual, "retail price" shall be one hundred dollars ($100);

(e) For used motor vehicles previously registered in another state or country that were purchased out-of-state by a Kentucky resident who is registering the vehicle in Kentucky for the first time, "retail price" shall be the total consideration given at the time of purchase or at a later date, including the average trade-in value given in the automotive reference manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~] for any vehicle given in trade;

(f) For used motor vehicles previously registered in Kentucky that are sold in Kentucky, and U-Drive-It motor vehicles that are not transferred within one hundred eighty (180) days of being registered as a U-Drive-It or that have more than five thousand (5,000) miles, "retail price" means the total consideration given, excluding any amount allowed as a trade-in allowance by the seller. The trade-in allowance shall be disclosed in the notarized affidavit signed by the buyer and the seller attesting to the total consideration given. If a notarized affidavit signed by both the buyer and the seller is not available to establish the total consideration given for a motor vehicle, "retail price" shall be established by the ***Department of*** Revenue[~~ Cabinet~~] through the use of the automotive reference manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~];

(g) Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the average trade-in value given in the automotive reference manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~];

(h) If a dealer transfers a motor vehicle which he has registered as a loaner or rental motor vehicle within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a loaner or rental motor vehicle, then the "retail price" of the vehicle shall be the same as the retail price determined by paragraph (a) of this subsection computed as of the date on which the vehicle is transferred; and

(13) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a dealer and which is regularly loaned or rented to customers of the service or repair component of the dealership.

Section 383. KRS 138.460 is amended to read as follows:

(1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the ***Department of*** Revenue[~~ Cabinet~~] on forms provided by the ***department***[~~cabinet~~] and on those forms as the ***department***[~~cabinet~~] may prescribe. The ***department***[~~cabinet~~] shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of KRS 138.450. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a person offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. A credit shall not be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk a notarized affidavit, if required, and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12)(a) for new vehicles, and KRS 138.450(12)(c) or (d) for used cars. The clerk shall attach the notarized affidavit, if available, or other documentation attesting to the retail price of the vehicle as the ***Department of*** Revenue[~~ Cabinet~~] may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars ($6) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the ***Department of*** Revenue[~~ Cabinet~~] as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the ***Department of*** Revenue[~~ Cabinet~~] as a result of the first registration. A person shall not be entitled to a refund unless he shall have filed with the ***Department of*** Revenue[~~ Cabinet~~] a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the ***Department of*** Revenue[~~ Cabinet~~] as a result of the registration. A person shall not be entitled to a refund unless he shall have filed with the ***Department of*** Revenue[~~ Cabinet~~] a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 384. KRS 138.4605 is amended to read as follows:

(1) A motor vehicle dealer who operates a service or repair component in his dealership may register a motor vehicle to be used exclusively as a loaner or rental motor vehicle to the customers of this service or repair department. The dealer may pay usage tax on the loaner or rental motor vehicle as provided in KRS 138.460, or, subject to the provisions of this section, may pay a usage tax of twenty-five dollars ($25) per month on the loaner or rental motor vehicle.

(2) A dealer shall pay the usage tax on a loaner or rental motor vehicle in the manner provided by KRS 138.460 unless the dealer shows to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that he is regularly engaged in the servicing or repair of motor vehicles and loans or rents the loaner or rental motor vehicle to a retail customer while the customer's motor vehicle is at the dealership for repair or service.

(3) For a dealer to be eligible to pay the usage tax on a loaner or rental motor vehicle under this section, the dealer shall identify the motor vehicle as a loaner or rental motor vehicle to the ***Department of*** Revenue[~~ Cabinet~~] and shall maintain records, as required by the ***Department of*** Revenue[~~ Cabinet~~], which show all uses of the loaner or rental motor vehicle.

(4) The tax due under subsection (1) of this section shall be remitted to the ***Department of*** Revenue[~~ Cabinet~~] monthly on forms prescribed by and in accordance with administrative regulations promulgated by the ***department***[~~cabinet~~].

(5) Failure of a motor vehicle dealer to remit the taxes applicable to a loaner or rental motor vehicle under this section shall be sufficient cause for the ***Department of*** Revenue[~~ Cabinet~~] to revoke the authority to use that motor vehicle as a loaner or rental motor vehicle and cause the usage tax on that motor vehicle to be due and payable in accordance with KRS 138.460 on the retail price of that motor vehicle when it was first registered as a loaner or rental motor vehicle.

(6) A motor vehicle no longer covered under the loaner permit program shall be taxed in the same manner as motor vehicles under KRS 138.450(12).

Section 385. KRS 138.464 is amended to read as follows:

The county clerk shall report each Monday to the ***Department of*** Revenue[~~ Cabinet~~] all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. The clerk shall deposit motor vehicle usage tax collections not later than the next business day following receipt in a Commonwealth of Kentucky, ***Department of*** Revenue[~~ Cabinet~~] account in a bank designated as a depository for state funds. The clerk may be required to then cause the funds to be transferred from the local depository bank to the State Treasury in whatever manner and at times prescribed by the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] or his designee. Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed. Failure to deposit or, if required, transfer collections as required above shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount not deposited or, if required, not transferred for each day until the collections are deposited or transferred as required above. The penalty for failure to deposit or transfer money collected shall not be less than fifty dollars ($50) nor more than five hundred dollars ($500) per day. The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause. The ***department***[~~cabinet~~] may in its discretion grant a county clerk a reasonable extension of time to file his report or make any transfer of deposits as required above. The extension, however, must be requested prior to the end of the seven (7) day period and shall begin to run at the end of said period. All penalties collected under this provision shall be paid into the State Treasury as a part of the revenue collected under KRS 138.450 to 138.729.

Section 386. KRS 138.490 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall furnish the ***Department of*** Revenue[~~ Cabinet~~], within thirty (30) days after the end of each race meeting, a report of the number of persons subject to the tax levied in KRS 138.480 who enter the grounds or inclosure during the race meeting. At the same time, the person shall pay to the state the correct amount due by reason of the collection of the tax from persons entering the grounds or inclosure of the race track.

(2) Any person who violates any provision of this section or KRS 138.480 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6).

Section 387. KRS 138.502 is amended to read as follows:

(1) A person shall not sell or deliver untaxed diesel fuel or dyed diesel fuel when the person knows or has reason to know that the fuel will be used in a motor vehicle on any public highway.

(2) A person shall not introduce untaxed diesel fuel or dyed diesel fuel into the supply tank of any motor vehicle licensed for highway use.

(3) A person shall not use untaxed diesel fuel or dyed diesel fuel in any motor vehicle actually used on a public highway.

(4) The prohibitions contained in this section shall not apply to:

(a) Persons operating motor vehicles that have received fuel into the fuel tank outside this state in a jurisdiction that permits introduction of untaxed diesel fuel or dyed diesel fuel into the fuel supply tank of highway vehicles; and

(b) Uses of untaxed fuel or dyed diesel fuel on the highway which are lawful under the Internal Revenue Code and regulations, including state and local government vehicles, and buses, unless otherwise prohibited by this chapter.

(5) The ***department***[~~cabinet~~] may assess a civil penalty as follows:

(a) For first offenses, one thousand dollars ($1,000) or ten dollars ($10) per gallon of untaxed fuel or dyed diesel fuel involved, whichever is greater, against any person who violates this section. The capacity of the fuel tank shall be assumed to be the amount of fuel involved, unless a lesser amount can be adequately verified by the violator; and

(b) For subsequent offenses, the penalty shall be the amount determined in paragraph (a) of this subsection, multiplied by the number of separate violations by the violator.

Section 388. KRS 138.530 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS Chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510 shall be made weekly to the ***Department of*** Revenue[~~ Cabinet~~] no later than the fifth business day, excluding Saturday and Sunday, following the close of each week of racing, during each race meeting and accompanied by reports as prescribed by the ***department***[~~cabinet~~]. All funds received by the ***Department of*** Revenue[~~ Cabinet~~] shall be paid into the State Treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky Horse Racing Authority shall weekly, during each race meeting, report to the ***Department of*** Revenue[~~ Cabinet~~] the total amount bet or handled the preceding week and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky Horse Racing Authority or his duly authorized representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines, and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation, or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any.

Section 389. KRS 138.550 is amended to read as follows:

In addition to all other penalties provided in KRS 138.510 to 138.540, when the pari-mutuel system of betting is operated at a track licensed under the provisions of KRS 137.170, said license may be suspended, revoked or renewal refused by the Kentucky Horse Racing Authority upon the failure of the operator to comply with the provisions of KRS 138.510 to 138.540 or the rules and regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~] pursuant thereto even though the pari-mutuel system of betting and the track are operated by different persons, corporations or associations.

Section 390. KRS 138.727 is amended to read as follows:

(1) Nothing in KRS 186.655 to 186.725 shall deny the right of the ***Department of*** Revenue[~~ Cabinet~~] to make audits of a taxpayer's records and accounts, even though the same taxpayer may be or should be a motor carrier and subject to investigation by the Department of Vehicle Regulation.

(2) The Department of Vehicle Regulation shall, upon request of the ***Department of*** Revenue[~~ Cabinet~~], furnish the ***Department of*** Revenue[~~ Cabinet~~] any information which it may have in its records with regard to the administration of KRS 138.655 to 138.725.

(3) The Department of Vehicle Regulation shall not make any refunds to any person or company without inquiring of the ***Department of*** Revenue[~~ Cabinet~~] as to the person or company being indebted to the Commonwealth of Kentucky by reason of any tax liability, and no refunds shall be made if such person or company is indebted in any fashion to the Commonwealth of Kentucky.

Section 391. KRS 138.810 is amended to read as follows:

As used in KRS 138.820 to 138.860:

(1) "Contaminated waste materials" means those materials, in solid, liquid or gaseous form, which are transported or buried with radioactive wastes;

(2) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(3) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation;

(4) "Processor" means any person receiving delivery or any person having an interest or right of occupancy or use in real property or improvements or any person owning, operating or maintaining a radioactive waste disposal site or facility of

contaminated waste materials or radioactive waste materials for processing, packaging, storage, disposal, burial or other disposition;

(5) "Radioactive waste disposal site or facility" means any installation constructed, used or placed in operation primarily for disposing of contaminated waste materials or radioactive wastes;

(6) "Radioactive wastes" means any and all material which is radioactive or is contaminated by or with radioactive material including but not limited to any structures used in containing such radioactive wastes; and

(7) "Radioactive material" means any material, solid, liquid or gas, which emits radiation spontaneously.

Section 392. KRS 138.820 is amended to read as follows:

(1) An excise tax of ten cents ($0.10) per pound is hereby levied and shall be paid by the processor to the ***department***[~~cabinet~~] upon all contaminated waste materials and all radioactive waste material delivered in the Commonwealth of Kentucky for processing, packaging, storage, disposal, burial or other disposition.

(2) Any person receiving contaminated waste materials or radioactive waste material or both or any person having an interest or right of occupancy or use in real property or improvements and any person owning, operating or maintaining a solid waste disposal site or facility as defined in KRS 224.01-010 upon or in which the same shall be deposited for processing, packaging, storage, disposal, burial or other disposition shall collect from the person delivering such material the tax imposed by this section.

(3) Every processor shall file with the ***department***[~~cabinet~~], on forms prescribed by the ***department***[~~cabinet~~], a monthly tax return. The return shall be made under penalty of perjury and shall contain such information as the ***department***[~~cabinet~~] may require.

(4) The monthly tax return shall be accompanied by remittance of the tax then due.

Section 393. KRS 138.830 is amended to read as follows:

Every processor shall maintain complete records of all deliveries of contaminated waste materials and of radioactive waste materials. Such records, together with manifests of lading, invoices, correspondence and other papers pertaining thereto shall be retained for a minimum period of two (2) years, and, if requested by the ***department***[~~cabinet~~], shall be made available for examination by the ***department***[~~cabinet~~].

Section 394. KRS 138.840 is amended to read as follows:

The ***department***[~~cabinet~~] may audit the books and records of each processor and make such other investigations as it deems necessary to determine the payment of tax and other requirements imposed by KRS 138.820 to 138.860.

Section 395. KRS 138.850 is amended to read as follows:

The tax returns required by KRS 138.820(3) shall be accompanied by a certified or cashier's check, payable to the state treasurer, for the amount of tax due for the preceding calendar month except that the ***department***[~~cabinet~~] may waive this requirement and accept the check of the processor if he is of sound financial condition and has established a record of compliance.

Section 396. KRS 138.860 is amended to read as follows:

The ***department***[~~cabinet~~] shall administer the taxes provided under KRS 138.820(1) and may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

Section 397. KRS 138.874 is amended to read as follows:

(1) Except as provided in KRS 138.870 to 138.889, no offender shall engage in this state in a taxable activity unless the tax imposed pursuant to KRS 138.872 has been paid as evidenced by the affixing of a tax stamp, label, or other tax indicia to the marijuana or controlled substance as prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The tax shall be due and payable immediately upon the occurrence of the taxable activity in this state. If an offender engages in a taxable activity in this state involving marijuana or a controlled substance on which a tax stamp, label, or other tax indicia evidencing payment of the tax imposed pursuant to KRS 138.872 has not already been affixed, the offender shall immediately permanently affix the required tax stamp, label, or other tax indicia.

(2) Tax stamps, labels, or other tax indicia required to be affixed to marijuana or controlled substances shall be purchased from the ***Department of*** Revenue[~~ Cabinet~~]. The purchaser shall pay one hundred percent (100%) of the face value for each tax stamp, label, or other tax indicia at the time of the purchase. The ***Department of*** Revenue[~~ Cabinet~~] shall maintain an inventory of tax stamps, labels, or other tax indicia in denominations it deems necessary to facilitate compliance by taxpayers with the provisions of this section. No purchaser of tax stamps, labels, or other tax indicia pursuant to this section shall be required to give his name, address, or otherwise identify himself to the ***Department of*** Revenue[~~ Cabinet~~].

(3) Each tax stamp, label, or other tax indicia shall be used only once and shall expire one (1) year after issuance by the ***Department of*** Revenue[~~ Cabinet~~] to the original purchaser thereof.

Section 398. KRS 138.876 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall administer the provisions of KRS 138.870 to 138.889 and may adopt regulations for the administration and enforcement of KRS 138.870 to 138.889. The ***Department of*** Revenue[~~ Cabinet~~] shall adopt a uniform system for providing, affixing, and displaying tax stamps, labels, or other tax indicia required pursuant to KRS 138.874. Payments required by KRS 138.872 shall be made to the ***Department of*** Revenue[~~ Cabinet~~] in the form the ***Department of*** Revenue[

~~Cabinet~~] requires to protect the revenues of the Commonwealth.

Section 399. KRS 138.880 is amended to read as follows:

(1) Each Commonwealth's attorney or county attorney in this state who obtains a conviction of, or a guilty or Alford plea from, an offender for violating KRS Chapter 218A shall, within seventy-two (72) hours after the conviction or the plea, notify the ***Department of*** Revenue[~~ Cabinet~~] in writing if the offender has not paid the tax imposed by KRS 138.872 as evidenced by the absence of the tax stamps, labels, or other official tax indicia required to be affixed to the marijuana or controlled substance that was the subject of the conviction or plea. The weight or dosage units prescribed in this subsection shall include the weight of the marijuana or the weight or dosage units of the controlled substance, whether pure, impure, or diluted. The notice required in this subsection shall be submitted in the manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and shall include:

(a) The name, address, and Social Security number of the offender from whom the conviction or plea was obtained;

(b) The type and quantity of the items that were the subject of the conviction or plea;

(c) Any information developed during the course of the investigation regarding any real or personal properties owned by the offender from whom the conviction or plea was obtained; and

(d) Other information the ***Department of*** Revenue[~~ Cabinet~~] may require to facilitate the assessment and collection of the tax due pursuant to KRS 138.872.

(2) To facilitate collection of the tax due pursuant to KRS 138.872, the Commonwealth's attorney or county attorney shall, as an authorized agent of the ***Department of*** Revenue[~~ Cabinet~~], simultaneously file a copy of the notice required pursuant to subsection (1) of this section with:

(a) The county clerk of the county in which the conviction or the guilty or Alford plea was entered;

(b) The county clerk of the county in which the offender resides if different from the county in which the conviction or plea was entered;

(c) The county clerk of any other county in which the Commonwealth's attorney or county attorney reasonably believes the offender from whom the conviction or plea was obtained owns real or personal property; and

(d) Each financial institution or other custodian the Commonwealth's attorney or county attorney reasonably believes possesses any funds, safe deposit box, or other assets owned in whole or in part by the offender from whom the conviction or plea was obtained.

(3) The notice required by subsection (2) of this section shall be a lien in favor of the Commonwealth pursuant to KRS 134.420 to secure payment of the tax, penalty, and interest due. The tax shall be and remain a lien upon the property, and all property subsequently acquired, and may be enforced as other liens on similar property are enforced. The lien may be released only upon written notice from the ***Department of*** Revenue[~~ Cabinet~~] that:

(a) The tax, penalty and interest due pursuant to KRS 138.872 and 138.889 have been paid;

(b) A bond has been given to the ***Department of*** Revenue[~~ Cabinet~~] as provided in KRS 131.150; or

(c) The tax, penalty, and interest are determined by the ***Department of*** Revenue[~~ Cabinet~~] not to be due.

(4) The county clerk recording or releasing a state tax lien pursuant to this section shall be entitled to the fee prescribed therefor by KRS 64.012.

(5) Except as necessary to accept taxes that the offender voluntarily pays under KRS 138.874, the ***Department of*** Revenue[~~ Cabinet~~] shall not require a bond or otherwise attempt to collect the tax due under KRS 138.874 until the offender's taxable activity results in a conviction or a guilty or Alford plea for a violation of KRS Chapter 218A. However, the ***Department of*** Revenue[~~ Cabinet~~] may impose a notice of lien on issuance of a warrant or indictment, which shall be released upon acquittal or dismissal of the case.

Section 400. KRS 138.882 is amended to read as follows:

(1) The tax, penalty, and interest assessed by the ***Department of*** Revenue[~~ Cabinet~~] pursuant to KRS 138.872 and 138.889 shall be deemed prima facie valid and correctly determined and assessed. The burden shall be upon the taxpayer in any judicial or administrative proceeding in this state to show their incorrectness or invalidity.

(2) The collection provisions of KRS 131.500, and any other remedy provided by the laws of the Commonwealth for collection of a tax administered by the ***Department of*** Revenue[~~ Cabinet~~], shall apply with respect to the collection of the tax, penalty, and interest imposed by KRS 138.872 and 138.889, but it shall not be necessary for the ***Department of*** Revenue[~~ Cabinet~~] to await the expiration of the times specified in KRS 131.500 to levy upon and sell any property or rights to property found within the Commonwealth belonging to the offender failing to pay the tax, penalty, or interest due pursuant to KRS 138.872 and 138.889.

(3) No person shall bring an action in any court to restrain or delay the assessment or collection of any tax, penalty, or interest imposed by KRS 138.872 and 138.889.

(4) Notwithstanding any provision of KRS 138.870 to 138.889, or any other provision of law, collection of any tax, penalty, or interest under KRS 138.872 and 138.889 or imposition of any revenue liens arising as a result of KRS 138.880 shall not interfere with any forfeiture of money or any other type or kind of property under the drug forfeiture laws of this state, or

with any distribution of property or funds under the drug forfeiture laws of this state. Regardless of the order in which proceedings are begun, forfeiture of money or any other type or kind of property and distribution of property and funds under the drug forfeiture laws of this state shall take precedence over any proceedings to collect the tax, penalty, or interest due pursuant to KRS 138.872 and 138.889.

Section 401. KRS 138.884 is amended to read as follows:

For the purpose of determining the correctness of any return; determining the amount of tax that should have been paid; determining whether or not the offender should have made a return or paid tax; or collecting any tax, penalty, or interest under KRS 138.872 and 138.889, the ***Department of*** Revenue[~~ Cabinet~~] may examine, or cause to be examined, any books, papers, records, or memoranda that may be relevant to making any determinations, whether the books, papers, records, or memoranda are the property of or in the possession of the offender or another person. The ***Department of*** Revenue[~~ Cabinet~~] may require the attendance of any person having knowledge or information that may be relevant; compel the production of books, papers, records, or memoranda by persons required to attend; take testimony on matters material to the determination; and administer oaths or affirmations. The ***Department of*** Revenue[~~ Cabinet~~] may issue subpoenas which may be served by authorized agents of the ***Department of*** Revenue[~~ Cabinet~~] to compel the attendance of witnesses or the production of documents, books, papers, records, bank records, and any other writing or memoranda.

Section 402. KRS 138.886 is amended to read as follows:

(1) The provisions of KRS 138.870 to 138.889 shall not inculpate any person or otherwise cause any person to incriminate himself in violation of his constitutional rights and, notwithstanding the exceptions provided in KRS 131.190 or any other law, neither the ***Department of*** Revenue[~~ Cabinet~~] nor any public employee may reveal facts contained in any report required by KRS 138.870 to 138.889, nor shall any information contained in any report filed pursuant to KRS 138.870 to 138.889 be used against an offender in any criminal proceeding, except in connection with a proceeding involving the tax, penalty, or interest due under KRS 138.872 and 138.889, unless the information is independently obtained. Further, possession of any tax stamp, label, or other tax indicia evidencing payment of tax pursuant to KRS 138.874 shall not be used against any person in any criminal proceeding.

(2) Any person violating this section shall be guilty of a Class B misdemeanor.

(3) This section shall not prohibit the ***Department of*** Revenue[~~ Cabinet~~] from publishing statistics that do not disclose the identity of offenders or the contents of particular returns or reports.

Section 403. KRS 138.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 138.140, 138.146, or 138.195 for which a specific penalty is not provided shall be guilty of a violation for the first offense; for each such subsequent offense, he shall be guilty of a Class A misdemeanor. These penalties shall be in addition to the civil penalties provided by KRS 138.165, 138.185, and 138.205.

(2) Any person who fails to supply the information required by subsection (8) of KRS 138.195 shall be guilty of a violation; for each subsequent offense, he shall be guilty of a Class B misdemeanor. These penalties shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(3) Any person violating subsection (10) of KRS 138.195 or any regulations adopted thereunder shall be guilty of a Class A misdemeanor. This penalty shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation, or sale of cigarettes, and presents any such false entry to the ***department***[~~cabinet~~] or any of its agents with the intent to avoid any tax imposed by KRS 138.130 to 138.205, shall be guilty of a Class D felony.

(5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a Class D felony.

(6) Any person who sells, offers to sell, or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a Class D felony.

(7) Any person who fails to remit gasoline or special fuel tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds. Embezzlement of state funds, for the first offense, shall be a Class A misdemeanor, and for the second offense, shall be a Class D felony.

(8) Any person who violates any of the provisions of KRS 138.300 shall be guilty of a Class A misdemeanor. This penalty shall be in addition to the penalty provided in subsection (7) of this section.

(9) Any person who violates KRS 138.310 shall be guilty of a Class A misdemeanor. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.

(10) (a) Any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under KRS 138.450 shall be guilty of a Class D felony and shall be fined not less than two thousand dollars ($2,000) per offense.

(b) Any person who violates any of the other provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000) and if the offender is an individual, he shall be guilty of a Class A misdemeanor.

(11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be guilty of a Class B misdemeanor.

(12) If any offender under the provisions of subsections (1) to (9), (11) or (16) of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.

(13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked, shall be guilty of a Class A misdemeanor.

(14) Any person violating any provision of KRS 138.655 to 138.725 is guilty of a Class A misdemeanor.

(15) In addition to the penalties provided in KRS 138.990(14), the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.

(16) Any person violating KRS 138.175 shall be guilty of a Class D felony.

(17) Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:

(a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars ($250) or less; and

(b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars ($250).

Section 404. KRS 139.025 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations providing for the reporting of gross receipts and payment of taxes levied by this chapter on a basis other than accrual.

Section 405. KRS 139.110 is amended to read as follows:

(1) "Retailer" means:

(a) Every person engaged in the business of making retail sales or furnishing any services included in KRS 139.200;

(b) Every person engaged in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption;

(c) Every person making more than two (2) retail sales during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

(d) Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.

(2) When the ***department***[~~cabinet~~] determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the ***department***[~~cabinet~~] may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

Section 406. KRS 139.180 is amended to read as follows:

"Taxpayer" means any person liable for tax under this chapter; ***"department"***[~~"cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~].

Section 407. KRS 139.210 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the tax shall be required to be collected by the retailer from the purchaser. If the taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount. The tax shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.

(2) The ***department***[~~cabinet~~] may relieve certain retailers from the provisions of subsection (1) of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. If the retailer establishes to the satisfaction of the ***department***[~~cabinet~~] that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.

(3) The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky.

(4) The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

Section 408. KRS 139.240 is amended to read as follows:

(1) Every person presently engaged or desiring to engage in or conduct business as a retailer or seller within this state shall file with the ***department***[~~cabinet~~] an application for a permit for each place of business.

(2) Every application for a permit shall:

(a) Be made upon a form prescribed by the ***department***[~~cabinet~~];

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of the place or places of business; and

(c) Set forth other information as the ***department***~~[cabinet]~~ may require.

(3) The application shall be signed by:

(a) The owner, if he or she is a natural person;

(b) A member or partner, if the entity is an association, limited liability company, limited liability partnership, or partnership;

(c) An executive officer, if the entity is a corporation, or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his or her authority; or

(d) A licensed certified public accountant, or an attorney licensed to practice law in the Commonwealth of Kentucky, specifically authorized by and acting on behalf of an owner, an association, a partnership, a limited liability company, a limited liability partnership, a corporation, or other business entity.

(4) A written signature shall not be required if the applicant registers electronically.

Section 409. KRS 139.250 is amended to read as follows:

After compliance with KRS 139.240 and 139.660 by the applicant, the ***department***~~[cabinet]~~ shall grant and issue to each applicant a separate permit for each place of business within the state. A permit shall not be assignable, and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

Section 410. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property sold by any person for delivery in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is either:

(1) Purchased for resale according to the provisions of KRS 139.270;

(2) Purchased through a properly executed certificate of exemption in accordance with KRS 139.270;

(3) Purchased according to regulations of the ***Department of*** Revenue~~[Cabinet]~~ governing a direct pay authorization; or

(4) Purchased under a form issued pursuant to KRS 139.776 or 139.777.

Section 411. KRS 139.270 is amended to read as follows:

(1) The resale certificate or certificate of exemption relieves the retailer or seller from the burden of proof only if taken in good faith from a person who, at the time of purchasing the tangible personal property:

(a) Indicates an intention to sell it in the regular course of business by executing the resale certificate; or

(b) Indicates that the property purchased will be used in an exempt manner by executing a certificate of exemption.

This relief from liability does not apply to a retailer or seller who fraudulently fails to collect the tax or solicits purchasers to participate in the unlawful claiming of an exemption.

(2) "Good faith" shall be demonstrated by the retailer or seller if the retailer or seller:

(a) Accepts a properly completed resale certificate or certificate of exemption; and

(b) Maintains a file of the certificate in accordance with KRS 139.720.

(3) If the ***department***~~[cabinet]~~ later finds that the retailer or seller exercised good faith according to the provisions of subsection (2) of this section but that the purchaser used the property in a manner that would not have qualified for resale status or the purchaser issued a certificate of exemption and used the property in some other manner or for some other purpose, the ***department***~~[cabinet]~~ shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 412. KRS 139.280 is amended to read as follows:

(1) The resale certificate shall:

(a) Be signed by and bear the name and address of the purchaser;

(b) Indicate the number of the permit issued to the purchaser;

(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.

(2) The certificate shall be substantially in a form as the ***department***~~[cabinet]~~ may prescribe.

(3) A signature shall not be required if the purchaser provides the retailer with an electronic resale certificate.

Section 413. KRS 139.320 is amended to read as follows:

(1) The use tax of six percent (6%) is hereby levied upon the storage, use, or other consumption in this state of any machines, machinery, tools, or other equipment brought, imported or caused to be brought into this state for use in constructing, building, or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage, or dredging system, electric or steam railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf,

excavation, grading, or other improvement or structures, or any part thereof. The owner or, if the property is leased the lessee of any such machine, machinery, tools, or other equipment shall be liable for the tax provided for in this chapter, to be computed as set out below. The useful life of such machines, tools, or other equipment shall be determined by the ***department***[~~cabinet~~] in accordance with the depreciable value permitted under KRS Chapter 141 and regulations issued pursuant thereto. Said use tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in this state bears to the total useful life. Such tax shall become due immediately upon such property's being brought into this state, and in the absence of satisfactory evidence as to the period of use intended in this state, it shall be presumed that such property will remain in this state for the remainder of its useful life.

(2) The provisions of this section shall not be applicable with respect to sales of such property within this state or to the use, storage, or consumption of such property when purchased for use in this state, and in such cases the full sales or use tax shall be paid as in all other cases, irrespective of the period of intended use in this state.

(3) For the purposes of this section, the total useful life of property which is fully depreciated at the time of being brought into this state or becomes fully depreciated while in use in this state shall be extended to include the time of use in this state. In the absence of satisfactory evidence as to the period of use in this state, the tax shall be computed on an annual basis and shall be paid as provided by KRS 139.540.

Section 414. KRS 139.330 is amended to read as follows:

Every person storing, using or otherwise consuming in this state tangible personal property purchased from a retailer is liable for the use tax levied under KRS 139.310. His liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the ***department***[~~cabinet~~], under such rules and regulations as it may prescribe, to collect the tax and who is, for the purpose of this chapter relating to the use tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to KRS 139.340 is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Section 415. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the ***department***[~~cabinet~~]. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state; or

(e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer.

Section 416. KRS 139.390 is amended to read as follows:

Every retailer selling tangible personal property for storage, use or other consumption in this state shall register with the ***department***[~~cabinet~~] and give:

(1) The name and address of all agents operating in this state;

(2) The location of all distribution or sales houses or offices or other places of business in this state;

(3) Such other information as the ***department***[~~cabinet~~] may require.

Section 417. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property which

this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the ***Department of*** Revenue[~~ Cabinet~~];

(b) In making the determinations of eligibility, the ***department***[~~cabinet~~] shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.170(3). For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;

(14) Gross receipts from the sale of water used in the raising of equine as a business;

(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;

(16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;

(17) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;

(18) Gross receipts from the sale of property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(19) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(20) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;

(21) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied by KRS 138.460 has been paid;

(22) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17); and

(23) Gross receipts from the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243.

Section 418. KRS 139.505 is amended to read as follows:

(1) For the purpose of this section, "gross receipts" means:

(a) Sales of tangible personal property in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; and

(b) Sales other than sales of tangible personal property in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on cost of performance, or gross receipt allocation method as provided by statute and elected by the taxpayer.

(2) Any business whose communications service, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent (5%) of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit. The refundable credit shall be equal to the sales tax paid on the difference by which the communications service purchased by the business exceeds five percent (5%) of the business's Kentucky gross receipts.

(3) Any business that qualifies for the refundable credit authorized by subsection (2) of this section shall make an annual application for the refund on or after June 1, 2002, and on or after every June 1 thereafter. The application shall be made to the ***department***~~[cabinet]~~ on forms as the ***department***~~[cabinet]~~ may prescribe and shall contain any information deemed necessary for the ***department***~~[cabinet]~~ to determine the business's eligibility to receive a refund.

(4) Notwithstanding the provisions of KRS 134.580 to the contrary, the ***department***~~[cabinet]~~, upon receipt of a properly documented refund application, shall cause a timely refund to be made directly to the business. Interest shall not be allowed or paid on any refund made under this section.

(5) Any refund application submitted under this section is subject to examination by the ***department***~~[cabinet]~~. The examination shall occur within four (4) years from the date the refund application is received by the ***department***~~[cabinet]~~. Any overpayment resulting from the examination shall be repaid to the State Treasury. In addition, the amount required to be repaid is subject to the interest provisions of KRS 131.183 and to the penalty provisions of KRS 131.180.

(6) If a business owns directly or indirectly fifty percent (50%) or more of another business, the credit computed under subsection (2) of this section shall be computed on a combined basis, excluding any intercompany Kentucky gross receipts.

Section 419. KRS 139.510 is amended to read as follows:

(1) The tax levied by KRS 139.310 shall not apply with respect to the storage, use, or other consumption of tangible personal property in this state upon which a tax substantially identical to the tax levied under KRS 139.200 (not including any special excise taxes such as are imposed on alcoholic beverages, cigarettes, and the like) equal to or greater than the

amount of tax imposed by KRS 139.310 has been paid in another state. Proof of payment of such tax shall be according to rules and regulations of the ***department***[~~cabinet~~]. If the amount of tax paid in another state is not equal to or greater than the amount of tax imposed by KRS 139.310, then the taxpayer shall pay to the ***department***[~~cabinet~~] an amount sufficient to make the tax paid in the other state and in this state equal to the amount imposed by KRS 139.310. No credit shall be given under this section for sales taxes paid in another state if that state does not grant credit for sales taxes paid in this state.

(2) To prevent actual multistate taxation of a communications service subject to taxation under this chapter, any provider or purchaser, upon proof that the provider or purchaser has paid a tax in another state on the same communications services, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of the tax legally paid in the other state.

Section 420. KRS 139.536 is amended to read as follows:

(1) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851. The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected. The term of the agreement granting the sales tax refund shall be ten (10) years, and this time period shall commence on the later of:

(a) The final approval for purposes of the inducements; or

(b) The completion date specified in the agreement.

(2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.

(3) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds. By October 1 of each year the ***Department of*** Revenue[~~Cabinet~~] shall certify to the authority and the secretary of the Tourism Development Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to subsection (1) of this section.

(4) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(5) The ***Department of*** Revenue[~~Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~Cabinet~~] to reflect the intent of this section and KRS 148.851 to 148.860.

Section 421. KRS 139.5381 is amended to read as follows:

As used in KRS 139.5382 to 139.5386 and 139.990(5), unless the context requires otherwise:

(1) ***"Department"***[~~"Cabinet"~~] means the Kentucky ***Department of*** Revenue[~~Cabinet~~];

(2) "Motion picture production company" means a company engaged in the business of producing motion pictures intended for a theatrical release or for exhibition on national television either by a network or for national syndication, or television programs which will serve as a pilot for or a segment of a nationally televised dramatic series, either by a network or for national syndication;

(3) "Financial institution" means any bank or savings and loan institution in the Commonwealth which carries FDIC or FSLIC insurance; and

(4) "Secretary" means the secretary of the Kentucky Finance and Administration Cabinet.

Section 422. KRS 139.5382 is amended to read as follows:

(1) Any motion picture production company that intends to film all, or parts of, a motion picture in Kentucky and desires to receive the credit provided for in KRS 139.5382 to 139.5386 shall, prior to the commencement of filming:

(a) Provide the ***Department of*** Revenue[~~Cabinet~~] with the address of a Kentucky location at which records of expenditures qualifying for the tax credit will be maintained, and with the name of the individual maintaining such records; and

(b) File an application for the tax credit provided for in KRS 139.5382 to 139.5386 within sixty (60) days after the completion of filming or production in Kentucky. The application shall include a final expenditure report providing documentation for expenditures in accordance with regulations promulgated by the ***Department of*** Revenue[~~Cabinet~~].

(2) To qualify as a basis for the financial incentive, expenditures must be made by check drawn upon any Kentucky financial institution.

(3) The twelve (12) month period, during which expenditures may qualify for the tax credit provided by KRS 139.5382 to 139.5386, shall begin on the date of the earliest expenditure reported.

Section 423. KRS 139.5384 is amended to read as follows:

(1) The ***Department of*** Revenue[~~Cabinet~~] shall, within sixty (60) days following the receipt of an application for a credit for sales and use tax paid, calculate the total expenditures of the motion picture production company for which there is documentation for funds expended in the Commonwealth, calculate the amount of credit to which the applicant is entitled, and certify the same to the secretary of the Finance and Administration Cabinet. In the case of an audit, as provided for in KRS 139.5386, the ***Department of*** Revenue[~~Cabinet~~] shall certify the amount of the credit due to the secretary within one hundred eighty (180) days following the receipt of the motion picture production company's application.

(2) Upon receipt of the certification of the amount thereof from the ***Department of*** Revenue[~~Cabinet~~], the secretary shall cause the refund of sales taxes paid to be remitted to the motion picture production company. For purposes of payment and funding thereof, the credit provided in KRS 139.5382 to 139.5386 shall be paid in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(3) The sales and use taxes paid by the motion picture production company for which a refundable tax credit is granted shall be deemed not to have been legally paid into the State Treasury, and the refund of the credit shall not be in violation of Section 59 of the Kentucky Constitution.

Section 424. KRS 139.5385 is amended to read as follows:

(1) Any tax credit, or part thereof, paid to a motion picture production company as a result of error by the ***Department of*** Revenue[~~Cabinet~~] shall be repaid by such company to the secretary of the Finance and Administration Cabinet.

(2) Any tax credit, or part thereof, paid to a motion picture production company as a result of error or fraudulent statements made by the motion picture production company, shall be repaid by such company to the secretary of the Finance and Administration Cabinet, together with interest, at the tax interest rate provided for in KRS 131.010(6).

Section 425. KRS 139.5386 is amended to read as follows:

(1) The ***Department of*** Revenue[~~Cabinet~~] may require that reported expenditures and the application for the tax credit from a motion picture production company be subjected to an audit by the ***Department of*** Revenue[~~Cabinet~~] auditors to verify expenditures.

(2) For companies in the business of producing films or television shows other than those which would qualify them for the credit under the definition of "motion picture production company" in KRS 139.5381, the ***department***[~~cabinet~~] may require separate accounting records for the reporting of expenditures made in connection with the application for a refundable tax credit.

(3) The ***Department of*** Revenue[~~Cabinet~~] shall promulgate appropriate administrative regulations to carry out the intent and purposes of KRS 139.5382 to 139.5386.

Section 426. KRS 139.540 is amended to read as follows:

The taxes imposed by this chapter are due and payable to the ***department***[~~cabinet~~] monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

Section 427. KRS 139.550 is amended to read as follows:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the ***department***[~~cabinet~~] in a form the ***department***[~~cabinet~~] may prescribe.

(2) For purposes of the sales tax, a return shall be filed by every retailer or seller. For purposes of the use tax, a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.

(3) Returns shall be signed by the person required to file the return or by a duly authorized agent but need not be verified by oath.

(4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under rules as the ***department***[~~cabinet~~] shall provide for the efficient collection of the sales tax on sales.

(5) The return shall show the amount of the taxes for the period covered by the return and other information the ***department***[~~cabinet~~] deems necessary for the proper administration of this chapter.

Section 428. KRS 139.580 is amended to read as follows:

The person required to file the return shall deliver the return together with a remittance of the amount of the tax due to the

department[~~cabinet~~].

Section 429. KRS 139.590 is amended to read as follows:

(1) For purposes of facilitating the administration, payment, or collection of the taxes levied by this chapter, the ***department***[~~cabinet~~] may, within its discretion, permit or require returns or tax payments for periods other than those prescribed by KRS 139.540 and 139.550.

(2) Notwithstanding the provisions of KRS 139.550, any retailer who desires to file his return on a quarterly basis shall make application in writing to the ***department***[~~cabinet~~] at least ninety (90) days prior to the due date of such quarterly return. When permitted, quarterly returns shall be filed in such manner as the ***department***[~~cabinet~~] may prescribe. No retailer may change from a quarterly reporting system to monthly reporting without authorization of the ***department***[~~cabinet~~].

(3) In no case shall a retailer be permitted to file quarterly unless monthly payments for the immediately preceding month are made on the basis of taxable gross receipts or total sales price of property used, consumed, or stored, as the case may be.

Section 430. KRS 139.600 is amended to read as follows:

For the purposes of the sales tax, gross receipts from rentals or leases of tangible personal property shall be reported and the tax paid in accordance with such rules and regulations as the ***department***[~~cabinet~~] may prescribe.

Section 431. KRS 139.610 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the ***department***[~~cabinet~~], extend the time for filing the return or paying the tax for a period not exceeding thirty (30) days.

(2) Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

Section 432. KRS 139.620 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the taxpayer, the excess shall be assessed by the ***department***[~~cabinet~~] within four (4) years from the date the return was filed, except as provided in subsection (2), and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the ***department***[~~cabinet~~].

(2) For the purposes of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in subsection (1) as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this chapter.

Section 433. KRS 139.640 is amended to read as follows:

In making a determination of tax liability the ***department***[~~cabinet~~] may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

Section 434. KRS 139.660 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with this chapter, the ***department***[~~cabinet~~] may require any person subject thereto to place with it such security as the ***department***[~~cabinet~~] may determine. The amount of the security shall be fixed by the ***department***[~~cabinet~~] but, except as provided in subsection (2), shall not be greater than twice the estimated average liability of persons filing returns for quarterly periods or three (3) times the estimated average liability of persons required to file returns for monthly periods, determined in such manner as the ***department***[~~cabinet~~] deems proper.

(2) In case of persons habitually delinquent in their obligations under this chapter, the amount of the security shall not be greater than three (3) times the average liability of persons filing returns for quarterly periods or five (5) times the average liability of persons required to file returns for monthly periods.

(3) The limitations herein provided apply regardless of the type of security placed with the ***department***[~~cabinet~~].

(4) The amount of the security may be increased or decreased by the ***department***[~~cabinet~~] subject to the limitations herein provided.

(5) (a) The ***department***[~~cabinet~~] may sell the security at public auction if it becomes necessary to do so in order to recover any tax, interest or penalty due. Security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may, however, be sold by the ***department***[~~cabinet~~] at a private sale at a price not lower than the prevailing market price thereof.

(b) The ***department***[~~cabinet~~] shall give notice of the date, time and place of the sale to the person who placed the security by certified mail addressed to him at his last known address as it appears in the records of the ***department***[~~cabinet~~], or delivery to such person.

(c) Delivery means handing it to such person or leaving it at his place of business with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the place of business is closed or the person to be served has no place of business, leaving it at his dwelling house with some person of suitable age and discretion residing therein. Said notice, if by certified mail, shall be postmarked no later than ten (10) days prior to said sale; if by delivery, said notice shall be given no later than ten (10) days prior to said sale.

(6) Upon any sale any surplus above the amounts due shall be returned to the person who placed the security.

Section 435. KRS 139.670 is amended to read as follows:

If any retailer liable for any amount under this chapter sells out his business or stock of goods, or otherwise quits business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the ***department***[~~cabinet~~] showing that it has been paid or a certificate stating that no amount is due.

Section 436. KRS 139.680 is amended to read as follows:

(1) If the purchaser of a business or stock of goods fails to withhold the purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within sixty (60) days after receiving a written request from the purchaser for a certificate, or within sixty (60) days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than ninety (90) days after receiving the request, the ***department***[~~cabinet~~] shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the ***department***[~~cabinet~~] of the amount that must be paid as a condition to issuing the certificate.

(2) Failure of the ***department***[~~cabinet~~] to mail the notice will release the purchaser from any further obligation to withhold the purchase price as above provided.

(3) The time within which the obligation of a successor may be enforced shall start to run at the time the retailer sells out his business or stock of goods or at the time that the determination against the retailer becomes final, whichever event occurs the later.

Section 437. KRS 139.700 is amended to read as follows:

The ***department***[~~cabinet~~] may, in its discretion, upon application authorize the collection of the tax imposed herein by any retailer not engaged in business within this state who, to the satisfaction of the ***department***[~~cabinet~~] furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued a permit to collect such tax in such manner, and subject to such regulation and agreements as the ***department***[~~cabinet~~] shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property sold to his knowledge for use within this state, in the same manner and subject to the same requirements as a retailer engaged in business within this state.

Section 438. KRS 139.710 is amended to read as follows:

The ***department***[~~cabinet~~] shall administer the provisions of this chapter and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes levied by this chapter, conferred generally upon the ***department***[~~cabinet~~] by the Kentucky Revised Statutes including Chapters 131, 134, and 135.

Section 439. KRS 139.720 is amended to read as follows:

(1) Every seller, every retailer, and every person storing, using and otherwise consuming in this state tangible personal property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the ***department***[~~cabinet~~] may require.

(2) Every such seller, retailer, or person who files the returns required under this chapter shall keep such records for not less than four (4) years from the making of such records unless the ***department***[~~cabinet~~] in writing sooner authorizes their destruction.

Section 440. KRS 139.730 is amended to read as follows:

In the administration of the sales and use tax, the ***department***[~~cabinet~~] may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property, the storage, use, or other consumption of which is subject to the tax. The report shall be filed at the time specified by the ***department***[~~cabinet~~] and shall contain such information as the ***department***[~~cabinet~~] may require.

Section 441. KRS 139.735 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall not promulgate any administrative regulation or policy either written or unwritten whose provisions are more stringent than the provisions of KRS 139.270 and 103 KAR 31.030 regarding the good faith provisions for resale certificates, exemption certificates and direct pay authorizations.

(2) It shall be mandatory upon the ***Department of*** Revenue[~~ Cabinet~~] during any audit process to honor resale certificates, exemption certificates and direct pay authorizations when executed according to the good faith provisions defined and described in KRS 139.270 and 103 KAR 31.030.

Section 442. KRS 139.740 is amended to read as follows:

(1) No judgment shall be entered and no garnishment or attachment shall be permitted by any court in this Commonwealth in an action for the collection of a debt arising out of the sale of tangible personal property unless an affidavit containing a

certificate of service is executed by the plaintiff to the effect that all use taxes due the Commonwealth have been paid.

(2) Prior to the filing of the affidavit, required under subsection (1) of this section, the plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail, serve upon the ***department***[~~cabinet~~] a copy of the affidavit. Within fifteen (15) days from the date of the filing of the affidavit the ***department***[~~cabinet~~] may file a counteraffidavit. In such event no judgment shall be entered or garnishment or attachment issued until proof has been taken concerning the matters at issue in the affidavit and counteraffidavit.

(3) In the event the use tax levied by this chapter is found to be due and unpaid the plaintiff may elect to pay the tax to the ***department***[~~cabinet~~], and the amount of the tax paid by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff does not elect to pay the use tax found to be due and unpaid, judgment for the amount of the tax shall be awarded to the Commonwealth.

(4) Any judgment awarded to the Commonwealth under this section shall constitute a prior claim to any judgment obtained by the plaintiff.

(5) Tax as defined herein includes interest accrued thereon at the tax interest rate as defined in KRS 131.010(6).

(6) The provisions of this section shall not apply to a plaintiff holding a retail permit issued pursuant to this chapter.

Section 443. KRS 139.760 is amended to read as follows:

(1) Whenever any person fails to comply with any provisions of this chapter or any rule or regulation of the ***department***[~~cabinet~~] relating to the provisions of this chapter, the ***department***[~~cabinet~~] may revoke or suspend any one (1) or more of the permits held by the person.

(2) The ***department***[~~cabinet~~] shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this chapter and the regulations relating thereto.

(3) No suit shall be maintained in any court to restrain or delay the collection or payment of any tax levied by this chapter.

Section 444. KRS 139.770 is amended to read as follows:

(1) The taxes paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the ***department***[~~cabinet~~] and shall contain such information as the ***department***[~~cabinet~~] may require.

(3) No taxpayer or certified service provider as provided by KRS 139.795 shall be entitled to a refund or credit of the taxes paid pursuant to the provisions of this chapter where the taxes have been collected from a purchaser as provided by KRS 139.210 and 139.340, unless the amount of taxes collected from the purchaser are refunded to the purchaser by the taxpayer or certified service provider as provided by KRS 139.795 who paid the taxes to the State Treasury.

(4) Where applicable, the amount of any claim for refund or credit shall be reduced by the amount deducted by the taxpayer or certified service provider as provided by KRS 139.795 pursuant to KRS 139.570 at the time the taxes were paid to the State Treasury.

Section 445. KRS 139.785 is amended to read as follows:

(1) The ***department***[~~cabinet~~] is authorized and directed to enter into the agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. To further the agreement, the ***department***[~~cabinet~~] is authorized to act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

(2) The ***department***[~~cabinet~~] is further authorized to take other actions reasonably required to implement the provisions set forth in KRS 139.780 to 139.795. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services to further the cooperative agreement. Notwithstanding the provisions of KRS Chapter 13A, the ***department***[~~cabinet~~] may issue educational bulletins to the extent necessary to enhance the understanding of and compliance with terms of the agreement.

(3) The ***commissioner of the Department of Revenue***[~~secretary of the cabinet~~] or the ***commissioner's***[~~secretary's~~] designee, the state budget director or the director's designee, and two (2) legislators are authorized to represent this state before the other states that are signatories to the agreement. One (1) member of the Senate shall be appointed by the President of the Senate, and one (1) member of the House of Representatives shall be appointed by the Speaker of the House of Representatives.

Section 446. KRS 139.789 is amended to read as follows:

The ***department***[~~cabinet~~] shall not enter into the agreement unless the agreement requires each state to abide by the following requirements:

(1) The agreement shall set restrictions to achieve more uniform state rates through the following:

(a) Limiting the number of state rates;

(b) Limiting the application of maximums on the amount of state tax that is due on a transaction; and

(c) Limiting the application of thresholds on the application of state tax.

(2) The agreement shall establish uniform standards for the following:

(a) The sourcing of transactions to taxing jurisdictions;

(b) The administration of exempt sales;

(c) The allowances a seller can take for bad debts; and

(d) Sales and use tax returns and remittances.

(3) The agreement shall require states to develop and adopt uniform definitions of sales and use tax terms. The definitions shall enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.

(4) The agreement shall provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

(5) The agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory state will not be used as a factor in determining whether the seller has nexus with a state for any tax.

(6) The agreement shall provide for a reduction of the burdens of complying with local sales and use taxes through the following:

(a) Restricting variances between the state and local tax bases;

(b) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(c) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(d) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(7) The agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers.

(8) The agreement shall require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance under the laws of the member state, with all provisions of the agreement while a member.

(9) The agreement shall require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(10) The agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the agreement.

Section 447. KRS 139.980 is amended to read as follows:

(1) Any person who violates any provision of this chapter shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the ***department***[~~cabinet~~].

Section 448. KRS 139.990 is amended to read as follows:

(1) Any person who executes:

(a) A resale certificate for property in accordance with KRS 139.270 knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter;

(b) An exemption certificate for property in accordance with KRS 139.270, knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner;

(c) A direct pay authorization for property not in accordance with 103 KAR 31.030; or

(d) An MPU exemption form or Direct Mail Form issued not in accordance with the provisions KRS 139.776 or 139.777;

shall be guilty of a Class B misdemeanor.

(2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, shall be guilty of a Class B misdemeanor.

(3) Any person who violates any of the provisions of KRS 139.220, 139.380, or 139.700 shall be guilty of a Class B misdemeanor.

(4) Any person who violates any of the regulations promulgated by the ***department***[~~cabinet~~] shall be guilty of a Class B misdemeanor.

(5) Any person, business, or motion picture production company falsifying expenditure reports, applications, or any other

statements made in securing the tax credit afforded by KRS 139.5382 to 139.5386 shall be guilty of a Class D felony. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by KRS 139.5382 to 139.5386.

Section 449. KRS 140.040 is amended to read as follows:

(1) Whenever any person shall exercise a power of appointment derived from any disposition of property (whether by will, deed, trust agreement, contract, insurance policy or other instrument) regardless of when made, such appointment shall be deemed a transfer taxable under the provisions of this chapter in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same in whole or in part, within the time provided therefor, a transfer taxable under the provisions of this chapter shall be deemed to take place to the person or persons receiving such property as a result of such omission or failure to the same extent that such property would have been subject to taxation if it had passed under the will of the donee of such power. The time at which such transfer shall be deemed to take place, for the purpose of taxation, shall be governed by the provisions of subsections (2) to (4) of this section.

(2) In the case of a power of appointment which passes to the donee thereof at the death of the donor, under any instrument, and if the donor dies on or after April 24, 1936, the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donor and the assessment be made at that time against the life interest of the donee and the remainder against the corpus. The value of the property to which the power of appointment relates shall be determined as of the date of the death of the donor and shall be taxed at the rates and be subject to the exemptions in effect at the death of the donor. The determination of the applicable rates and exemptions (in effect at the death of the donor) shall be governed by the relationship of the beneficiary to the donee of the power of appointment. In the event the payment of the tax at the death of the donor should operate to provide an exemption for any beneficiary of a donee not authorized by KRS 140.080, then such exemption shall be retrospectively disallowed at the time of the death of the donee. It is further provided that the remainder interest passing under the donee's power of appointment, whether exercised or not, shall be added to and made a part of the distributable share of the donee's estate for the purpose of determining the exemption and rates applicable thereto.

(3) In all cases other than that described in subsection (2) the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donee. In such cases, the value of the property to which the power of appointment relates shall be determined as of the date of the death of the donee and shall be taxed at the rates and be subject to the exemptions in effect at the death of the donee. The determination of the applicable rates and exemptions (in effect at the death of the donee) shall be governed by the relationship of the beneficiary to the donee of the power of appointment.

(4) The provisions of subsection (2) shall not preclude the taxation, at the death of the donee, of any transfer made by means of a power of appointment if such transfer was not in fact reported to or a tax assessed thereon by the ***Department of*** Revenue[~~ Cabinet~~] within the period of limitation prescribed by KRS 140.160. If the transfer by the power of appointment is not so reported or a tax assessed thereon, the period of limitation prescribed in KRS 140.160 shall not begin to run until the death of the donee of such power.

(5) The amendments to this section, adopted by the 1948 General Assembly, shall apply to all powers of appointment whether created before or after the effective date of said amendments. It is the declared intention of the General Assembly to impose a tax upon every transfer of property by means of a power of appointment, regardless of when or how created, and it is the declared intention of the General Assembly that the use of the power of appointment device shall not permit the transfer of property, to which such a power relates, to escape thereby the payment of state inheritance taxes.

Section 450. KRS 140.080 is amended to read as follows:

(1) The following exemptions chargeable against the lowest bracket or brackets of inheritable interests shall be free from any tax under the preceding provisions of this chapter:

(a) Surviving spouse, total inheritable interest. Effective as to decedents dying after August 1, 1985, notwithstanding anything in this chapter to the contrary, if the decedent's personal representative (or trustee or transferee, absent a personal representative) shall so elect, the spouse's inheritable interest shall include the entire value of any trust or life estate which is in a form that qualifies for the federal estate tax marital deductions under section 2056(b)(5) or 2056(b)(7) of the Internal Revenue Code of 1954, as amended through December 31, 1984, regardless of whether or not the federal estate tax marital deduction is elected by the decedent's personal representative. To be valid, the election referred to in the sentence immediately preceding must be made in the form prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and must be filed on or before the due date of the tax return (plus extensions) or with the first tax return filed, whichever last occurs;

(b) Class A beneficiaries as defined in KRS 140.070, other than the surviving spouse, of estates of decedents dying prior to July 1, 1995, as follows:

1. Infant child by blood or adoption, $20,000;
2. Child by blood who has been declared mentally disabled by a court of competent jurisdiction, $20,000;
3. Child adopted during infancy who has been declared mentally disabled by a court of competent jurisdiction,

$20,000; or a

4. Child adopted during adulthood who was reared by the decedent during infancy and who has been declared mentally disabled by a court of competent jurisdiction, $20,000;

5. Parent, $5,000;

6. Child by blood, $5,000;

7. Stepchild, $5,000;

8. Child adopted during infancy, $5,000;

9. Child adopted during adulthood who was reared by the decedent during infancy, $5,000; or a

10. Grandchild who is the issue of a child by blood, the issue of a stepchild, the issue of a child adopted during infancy or the issue of a child adopted during adulthood who was reared by the decedent during infancy, $5,000;

(c) Class A beneficiaries as defined in KRS 140.070, other than the surviving spouse, of estates of decedents dying on or after July 1, 1995, shall be as follows:

1. For decedents dying between July 1, 1995, and June 30, 1996, the greater of the exemption established pursuant to paragraph (1)(b) of this section or one-fourth (1/4) of each beneficiary's inheritable interest;

2. For decedents dying between July 1, 1996, and June 30, 1997, the greater of the exemption established pursuant to paragraph (1)(b) of this section or one-half (1/2) of each beneficiary's inheritable interest;

3. For decedents dying between July 1, 1997, and June 30, 1998, the greater of the exemption established pursuant to paragraph (1)(b) of this section or three-fourths (3/4) of each beneficiary's inheritable interest; and

4. For each decedent dying after June 30, 1998, each beneficiary's total inheritable interest;

(d) All persons of Class B, under KRS 140.070, $1,000; and

(e) All persons of Class C, under KRS 140.070, $500.

(2) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

Section 451. KRS 140.090 is amended to read as follows:

(1) In calculating the value of the distributive shares the following deductions and no others shall be allowed:

(a) Debts of the decedent, except debts secured by property not subject to the tax jurisdiction of Kentucky; and except debts barred by the statute of limitations;

(b) Taxes accrued and unpaid, except those on property not subject to the tax jurisdiction of Kentucky;

(c) Death duties paid to foreign countries;

(d) Federal estate taxes, in the proportion which the net estate in Kentucky subject to federal estate taxes bears to the total net estate everywhere subject to federal estate taxes; all calculations are subject to approval by the ***Department of*** Revenue[~~ Cabinet~~];

(e) Drainage, street, or other special assessments due and unpaid which are a lien on said property;

(f) Funeral, monument, and cemetery lot maintenance expenses actually paid not exceeding in total five thousand dollars ($5,000);

(g) Commission of executors and administrators in the amount actually allowed and paid;

(h) Cost of administration, including attorney's fees actually allowed and paid.

(2) Notwithstanding the provisions of KRS 404.040, the debts of a deceased wife, subject to the exception in subsection (1)(a), shall be allowed in calculating the distributive shares of her estate for purposes of this chapter, provided such debts are paid from the proceeds of her estate.

Section 452. KRS 140.100 is amended to read as follows:

(1) The Department of Insurance, on the application of the ***Department of*** Revenue[~~ Cabinet~~], shall determine, and certify in duplicate to the ***department***[~~cabinet~~], the value of any future or contingent estate, income or interest therein, limited, contingent, dependent or determinable upon the lives of persons in being, upon the facts contained in the application or other facts submitted by the ***department***[~~cabinet~~]. No fee shall be charged by the division for this service. The certificate shall be competent evidence that the method of computation therein is correct.

(2) The value of every future, contingent or limited estate, income or interest for the purpose of this chapter shall be determined by the rules, methods and standards of mortality and of value prescribed by the appropriate United States life mortality tables for ascertaining the value of life estates, annuities and remainder interests except that the rate of interest assessed in computing the present value of all future interests and contingencies shall be four percent (4%) per annum.

(3) When an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon such interest has not been fixed and determined, the value of the interest for the purpose of taxation shall be that amount of the annuity or

income actually paid or payable to the annuitant or life tenant during the period for which the annuitant or life tenant was entitled to the annuity or was in possession of the life estate. The tax on such annuities and life interests shall be payable out of the corpus of the estate, unless otherwise provided under the terms of the will.

(4) Notwithstanding anything in this chapter to the contrary, the value of a surviving spouse's interest in a trust or life estate which was exempt from Kentucky inheritance tax in the first spouse's estate pursuant to an election made under KRS 140.080(1)(a) shall be deemed to be equal to the entire value of the property held in the trust or life estate, at the surviving spouse's death, for Kentucky inheritance tax purposes in the surviving spouse's estate.

Section 453. KRS 140.110 is amended to read as follows:

(1) In the case of estates in expectancy which are contingent or defeasible, a tax shall be levied at the rate which, on the happening of the most probable contingencies or conditions named in the will, deed, trust agreement, contract, insurance policy, or other instrument, would be applicable under the provisions of this chapter. Moneys so collected shall be distributed as are other inheritance tax funds. If the property so taxed shall ultimately vest in possession in persons taxable at a lower rate, or in a person or a corporation exempt from taxation by this chapter, upon application by such beneficiary to the ***Department of*** Revenue[~~ Cabinet~~] for refund of any excess tax, the ***Department of*** Revenue[~~ Cabinet~~], after investigation, shall certify to the Finance and Administration Cabinet the amount of such refund. The Finance and Administration Cabinet shall refund such excess payment of tax in the same manner as other refunds are made.

(2) Where an estate or interest can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of divesting.

Section 454. KRS 140.160 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall have full supervision of the collection of all taxes due under the provisions of this chapter, including the power to institute suit in this and other states. It may employ attorneys and other persons necessary to carry out the full intent and purpose of this chapter. The ***department***[~~cabinet~~] shall furnish, upon application, blank forms covering information as may be necessary to determine the amount of tax due the state on the transfer of all property subject to tax.

(2) The ***department***[~~cabinet~~] may cause personal representatives or beneficiaries to file all statements required by this chapter with the clerks of the proper courts and with the ***department***[~~cabinet~~], and may require them to furnish any additional information deemed necessary to support the computation of the amount of tax that should be paid by the estate. The personal representative, or the beneficiaries in the absence of a personal representative, shall compute the taxes imposed by this chapter on the tax return provided by the ***department***[~~cabinet~~] when:

(a) 1. A United States estate tax return is required to be filed under federal law and applicable regulations; and

2. The estate includes property over which Kentucky has jurisdiction for purposes of the taxes imposed by this chapter; or

(b) Any assets from the estate subject to the taxes imposed by this chapter pass to a beneficiary taxable under KRS 140.070.

The tax return, when required, shall be filed with the ***department***[~~cabinet~~] within eighteen (18) months after the death of the decedent or at the time payment of the tax is made pursuant to KRS 140.210.

(3) Except as herein provided, no action to enforce the collection of the tax imposed by this chapter shall be commenced more than ten (10) years after the cause of action first accrued. In case the settlement of an estate is delayed because of litigation or other unavoidable cause, the delay shall suspend the limitation, prescribed by this subsection, until the cause of delay is removed. In the case of a fraudulent return or any other fraudulent representation affecting the amount of or the liability for the tax imposed by this chapter notwithstanding any provision of limitation provided elsewhere, the tax due by reason thereof may at any time be assessed and collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 455. KRS 140.165 is amended to read as follows:

The ***department***[~~cabinet~~] may make such audits, appraisals, and examinations of records according to KRS 131.130 to properly supervise the collection of all taxes due under the provisions of this chapter. A completed tax return with full payment attached shall be final one (1) year after receipt by the ***department***[~~cabinet~~] unless an audit has been initiated with due notice to the personal representative, except:

(1) If any assets of the estate were not reported on the tax return filed with the ***department***[~~cabinet~~], or

(2) If any information was not revealed to the ***department***[~~cabinet~~] which would affect the amount of tax due.

Section 456. KRS 140.170 is amended to read as follows:

(1) The District Court, upon the request of the personal representative or any interested party, shall appoint some competent person as appraiser of the estate. The appraiser shall give notice to all persons having an interest in the estate and to such other persons as the court may by order direct, and shall then appraise the property belonging to the estate. His report shall be filed with the court and a copy thereof with the ***Department of*** Revenue[~~ Cabinet~~]. He shall be paid for his services out of the funds of the estate, on the certification of the court, the amount to be fixed by that court. The total compensation of the appraiser shall not exceed one-tenth of one percent (0.1%) of the total appraised value of the estate for inheritance tax

purposes, but there shall be a minimum allowance of five dollars ($5), together with the appraiser's actual and necessary traveling expenses.

(2) After investigation, the ***department***[~~cabinet~~] may change the value of the estate for inheritance taxes and advise the representatives of the estate of this changed valuation after the receipt of a completed tax return and full payment as shown by the tax return.

(3) No appraiser shall accept any fee or reward from a personal representative, trustee, legatee, next of kin or heir of the decedent, or from any other person liable to pay the tax or any portion thereof.

(4) No person shall willfully and knowingly subscribe to or make any false statement of fact, or knowingly subscribe to or exhibit any false paper or false report with intent to deceive any appraiser.

(5) The ***department***[~~cabinet~~] shall keep a record of all returns, reports, and schedules attached thereto required by this chapter for twelve (12) years.

Section 457. KRS 140.180 is amended to read as follows:

If real property of a decedent is passed to another person so as to become subject to the tax, his personal representative or trustee shall inform the ***department***[~~cabinet~~] thereof within six (6) months after his appointment, or if the fact is not known to him within that time, then within one (1) month after the fact becomes known to him.

Section 458. KRS 140.210 is amended to read as follows:

(1) All taxes imposed by this chapter, unless otherwise provided in this chapter, shall be due at the death of the decedent and shall be payable to the ***Department of*** Revenue[~~ Cabinet~~] within eighteen (18) months thereafter. If they are paid within nine (9) months, a discount of five percent (5%) shall be allowed, and if they are paid within eighteen (18) months, no interest shall be charged and collected thereon. If the taxes due are not paid within eighteen (18) months, interest at the tax interest rate as defined in KRS 131.010(6) shall be paid from the expiration of the eighteen (18) months until payment is actually made to the ***department***[~~cabinet~~].

(2) In all cases where the personal representatives or trustees do not pay the taxes within eighteen (18) months from the death of the decedent, they shall be required to give bond, in the form and to the effect prescribed by the ***department***[~~cabinet~~], for the payment of the taxes and interest.

Section 459. KRS 140.222 is amended to read as follows:

(1) When the net tax due from a beneficiary's distributive share exceeds five thousand dollars ($5,000), the beneficiary may elect to pay the inheritance tax in ten (10) equal installments. The first installment shall be due at the time the return is filed with succeeding payments due in annual installments beginning one (1) year after the return is filed.

(2) The portion of the tax deferred under this section shall be charged with interest at the tax interest rate as defined in KRS 131.010(6) commencing eighteen (18) months after the date of death.

(3) When the beneficiary elects to pay the tax on his share as provided in this section, such election must be made in writing and signed by the beneficiary and must be filed with the ***Department of*** Revenue[~~ Cabinet~~] at the time of filing the tax return for the decedent's estate under KRS 140.160(2). The filing of the election together with payment of the first installment shall relieve the personal representative or trustee of the estate from further liability for the tax payments deferred under this section and the bond requirements of KRS 140.210, subject to the final approval by the ***Department of*** Revenue[~~ Cabinet~~] of all other taxes due under this chapter.

(4) A beneficiary electing to defer the payment of taxes under this section shall be personally liable for the amount of deferred taxes until paid.

(5) The period of limitations for actions to enforce the collection of taxes imposed by this chapter as provided by KRS 140.160(3) shall be suspended for the period of time for deferred payment granted by this section.

Section 460. KRS 140.224 is amended to read as follows:

(1) Where a beneficiary elects to pay the inheritance tax on the installment basis as provided in this chapter, such beneficiary may be required to post sufficient security at any time the ***department***[~~cabinet~~] reasonably believes collection of the tax may be in jeopardy.

(2) Failure of a beneficiary to pay any installment due or to post the required security shall cause all installments to become immediately due and payable.

Section 461. KRS 140.270 is amended to read as follows:

(1) In the absence of administration in this state upon the estate of a nonresident, the ***Department of*** Revenue[~~ Cabinet~~], at the request of a personal representative duly appointed and qualified in the state of the decedent's domicile, or of a grantee under a conveyance made during the grantor's lifetime, and upon satisfactory evidence furnished by the personal representative or grantee, or otherwise, may determine whether or not any property of the decedent within this state is subject to the provisions of this chapter. If so, the ***department***[~~cabinet~~] may determine the amount of tax and adjust the same with the personal representative or grantee, and for that purpose may appoint an appraiser to appraise the property. The expense of appraisal shall be charged upon the property in addition to the tax. The ***department's***[~~cabinet's~~] certificate of the amount of tax and its receipt for the amount therein certified may be filed with the county judge/executive of the

county where the property is located, and when so filed shall be evidence of the payment of the tax to the extent of such certification. When the tax is not adjusted within six (6) months after the death of the decedent, the proper District Court, upon application of the ***department***~~[cabinet]~~, shall appoint an administrator in this state.

(2) When evidence of ownership of intangible personal property belonging to a nonresident decedent is found to be physically located in this state, the ***Department of*** Revenue~~[Cabinet]~~ shall so inform the state official collecting death tax in the state of domicile of the decedent, if that state furnishes like information to the ***Department of*** Revenue~~[Cabinet]~~ of this state in a reciprocal manner.

Section 462. KRS 140.275 is amended to read as follows:

(1) It is hereby declared to be the legislative policy that Kentucky shall not be a party to interstate double taxation under the terms of the Kentucky inheritance and estate tax laws. Pursuant to this policy, the ***commissioner of the Department of Revenue***~~[secretary of revenue]~~ is hereby authorized to omit from the property subject to tax under those laws, any intangible personal property of a nonresident decedent (having a domicile in the United States) held in trust by a Kentucky trustee if the jurisdiction (state, territory or District of Columbia) in which the decedent was domiciled grants similar immunity to residents of Kentucky, but only in the event the personal representative shall present evidence that the tax has been or will be paid to the other jurisdiction. If another state, territory, or the District of Columbia of the United States constitutionally imposes a tax on the transfer of estates or of the distributive shares thereof, but grants immunity from the tax in respect of any intangible property of its resident decedents held in trust by a Kentucky trustee, then the ***commissioner of the Department of Revenue***~~[secretary of revenue]~~ is hereby authorized to exclude from the property subject to tax under the Kentucky inheritance and estate tax laws, the intangible personal property of a Kentucky resident held in trust in that jurisdiction but only in the event the personal representative shall present evidence that the tax has been or will be paid to the other jurisdiction.

(2) It is expressly provided, however, in view of the uncertainty now prevailing with respect to the correct interpretation of the Constitution of the United States regarding the jurisdiction of the several states, that the provisions of this section shall be inoperative under the second alternative until and unless an agreement, approved as to legality by the Attorney General, between the ***commissioner of the Department of Revenue***~~[secretary of revenue]~~ as agent for Kentucky and the appropriate administrative official of such other state, shall have been executed and an original copy thereof filed with the Kentucky ***Department of*** Revenue~~[Cabinet]~~.

(3) This section is intended to apply retroactively to all estates of decedents on or after April 25, 1936, which are subject to Kentucky inheritance tax laws.

Section 463. KRS 140.285 is amended to read as follows:

(1) When the ***Department of*** Revenue~~[Cabinet]~~ claims that a decedent was domiciled in Kentucky at the time of death and the taxing authorities of another state or states make a similar claim with respect to their state or states, the ***commissioner of the Department of Revenue***~~[secretary of revenue]~~ may enter into a written agreement with such taxing authorities and the executor, administrator or trustee, fixing the sum acceptable to the ***department***~~[cabinet]~~ in full settlement of the inheritance or estate taxes imposable under this chapter. Such agreement shall also fix the sum acceptable to such other state or states in full settlement of the death taxes imposable by such state or states.

(2) If the aggregate amount payable under such agreement to the states involved is less than the maximum sum allowable as a credit to the estate against the federal estate tax imposed thereon, then the executor, administrator or trustee shall also pay to the State of Kentucky as an estate tax so much of the difference between such aggregate amount and the amount of such credit as the amount payable to Kentucky under the agreement bears to such aggregate amount.

Section 464. KRS 140.290 is amended to read as follows:

Whenever debts are proved against the estate of a decedent after the payment of legacies or distribution of property from which the tax has been deducted or upon which it has been paid, and a refund is made by the legatee, devisee, heir or next of kin, a proportion of the tax so deducted or paid shall be repaid to him, by the personal representative or trustee if the tax has not been paid to the ***Department of*** Revenue~~[Cabinet]~~, or by the ***department***~~[cabinet]~~ if it has been so paid.

Section 465. KRS 140.320 is amended to read as follows:

If, within five (5) years after the death of the decedent, a qualified person sells, conveys, or otherwise transfers the ownership, directly or indirectly, of the qualified real estate to any person or persons other than another qualified person who is a joint owner or the qualified real estate is converted to a use other than agricultural or horticultural use, then the qualified persons to whom the property passed at the death of the decedent in whose estate the agricultural or horticultural value was reported shall cause to be paid, pursuant to administrative regulations promulgated by the ***Department of*** Revenue~~[Cabinet]~~, the additional inheritance tax that would have been due on the decedent's estate if fair market value had been used to compute the tax due on the estate rather than the agricultural or horticultural value, along with interest at the tax interest rate as defined in KRS 131.010(6).

Section 466. KRS 140.330 is amended to read as follows:

In the event the qualified real estate is reported for inheritance tax purposes at its agricultural or horticultural value and that real estate has been assessed at its agricultural or horticultural value for ad valorem tax purposes, then that assessment shall be presumed to be its agricultural or horticultural value for inheritance tax purposes. If, however, the real estate has not been so assessed for ad valorem tax purposes, then the agricultural or horticultural value shall be determined pursuant to KRS Chapter 132 and such regulations as may be promulgated by the ***Department of*** Revenue~~[Cabinet]~~ to determine horticultural or agricultural value for inheritance tax purposes.

Section 467. KRS 140.350 is amended to read as follows:

At such time as the ***Department of*** Revenue~~[Cabinet]~~ accepts the agricultural or horticultural value on qualified real estate comprising a portion of a decedent's estate and issues tax waivers thereon, it shall cause to be filed in the office of the county clerk of the county where the real estate or the greater portion thereof is located, on a form prescribed by the ***Department of*** Revenue~~[Cabinet]~~, a lien which on its face shall expire in five (5) years and the lien shall secure the payment of any additional tax which may become due as the result of the qualified real estate being sold to others than qualified persons or the qualified real estate being converted to other than a qualified use.

If additional taxes are due as the result of the real estate being transferred to other than a qualified person or its use is converted to other than agricultural or horticultural use, and the additional tax is not paid after assessment of the tax, within the time prescribed by the regulations of the ***Department of*** Revenue~~[Cabinet]~~, then the ***Department of*** Revenue~~[Cabinet]~~ may proceed to enforce the lien in accordance with law.

Section 468. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) ***"Commissioner"***~~["Secretary"]~~ means the ***commissioner of the Department of Revenue***~~[secretary of revenue]~~;

(2) ***"Department"***~~["Cabinet"]~~ means the ***Department of*** Revenue~~[Cabinet]~~;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2001, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes, but is not limited to, any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted; and

(r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted; and

(l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 469. KRS 141.023 is amended to read as follows:

To facilitate tax computation and tax return preparation, the ***Department of*** Revenue[~~ Cabinet~~] may develop optional tax tables and specify the classes of taxpayers eligible to utilize the tables in the preparation of their returns.

Section 470. KRS 141.0405 is amended to read as follows:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

(a) 1. Is an electric power company as defined in KRS Chapter 136; or

2. Is an entity that owns or operates a coal-fired electric generation plant;

(b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020, or 141.040; and

(c) Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased that is subject to tax under KRS 143.020 and that is used to generate electric power.

(3) Incentive tons are calculated as the tons of coal purchased in the current year for which coal severance tax was paid minus the tons of coal purchased and used during the base year.

(4) The base year amount shall be equal to:

(a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

(b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased in the base year and the tons of coal purchased in the year for which the credit is being claimed. The ***Department of*** Revenue[~~ Cabinet~~] shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the ***Department of*** Revenue[~~ Cabinet~~] under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:

(a) KRS 141.040;

(b) KRS 141.020;

(c) KRS 136.070; and

(d) KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The ***Department of*** Revenue[~~ Cabinet~~] shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

Section 471. KRS 141.041 is amended to read as follows:

(1) There shall be allowed a credit against the tax imposed on any corporation subject to taxation under KRS 141.040 and which, on or after January 1, 1984, installs, modifies, and utilizes facilities located in Kentucky for generating steam or hot water for space-heating or materials processing or for providing direct heat for industrial processes in the following ways:

(a) Replacement of an existing heat-generating facility not capable of using coal as a fuel with one in which coal can be used;

(b) Erection of a heat-generating facility additional to any existing heat-generating facility or facilities and capable of using coal as a fuel;

(c) Refurbishment for coal utilization of heat-generating facilities which were at one time capable of using coal but which had been altered to allow use of other fuels;

(d) Alteration of an existing heat-generating facility not capable of utilizing coal in such ways as to allow the use of coal;

(e) Substitution of coal for other fuels in any heat-generating facility which on January 1, 1984, was in existence and capable of utilizing coal and other fuels. Substitution means the increased heat input in BTU from coal matched by equal decreases of heat input in equivalent measures to BTU from other fuels, based upon relative fuel usage in the calendar year preceding the year in which the substitution occurred.

(2) The amount of the allowable credit shall be equal to four and one-half percent (4.5%) of the purchase price of the coal subject to taxation under KRS Chapter 143 consumed or substituted in each eligible heating facility as described in subsection (1) of this section, minus any transporting cost included in the purchase price.

(3) The credit shall be allowed for ten (10) years consecutive from the date of the initial installation, modification, or utilization of any heat-generating facility installed or modified on and after January 1, 1984, as defined in subsection (1)(a), (b), (c), and (d) of this section or ten (10) years consecutive from the filing of a fuel-switching credit claim in subsection (1)(e) of this section.

(4) The credit allowable under this section shall be applied against the taxpayer's tax liability as provided in KRS 141.0205, and no part of the credit shall be applicable to the tax imposed by KRS 141.040 for any other taxable year.

(5) A corporation claiming the credit under this section must submit proof of the installation, modification, utilization or substitution as required by regulations issued by the ***Department of*** Revenue[~~ Cabinet~~] prior to the claiming of such credit.

Section 472. KRS 141.042 is amended to read as follows:

(1) For all taxable years beginning on or after July 1, 1966, every corporation subject to taxation under KRS 141.040 shall make a declaration of estimated tax if the tax imposed by KRS 141.040 for the taxable year can reasonably be expected to exceed five thousand dollars ($5,000).

(2) The declaration required under subsection (1) shall contain the following information:

(a) The amount which is estimated as the amount of tax under KRS 141.040 for the taxable year;

(b) The excess of the amount estimated under paragraph (a) over five thousand dollars ($5,000), which excess for purposes of this section and KRS 141.044 and 141.205 shall be considered the estimated tax for the taxable year;

(c) Such other information as the ***department***~~[cabinet]~~ by forms or regulations may prescribe.

(3) The declaration required under subsection (1) shall be filed with the ***department***~~[cabinet]~~ on or before June 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year;

(b) After September 1 of the taxable year, the declaration shall be filed on or before December 15 of the taxable year.

(4) A corporation may make amendments of a declaration filed during the taxable year in accordance with regulations prescribed by the ***department***~~[cabinet]~~. An amendment of a declaration may be filed in any interval between the installment dates prescribed for that taxable year but only one (1) amendment may be filed in each such interval. If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the increase or decrease of the estimated tax by reason of such amendment. If any amendment is made after September 15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid in full at the time of making such amendment.

(5) A corporation with a taxable year of less than twelve (12) months shall make a declaration in accordance with regulations prescribed by the ***department***~~[cabinet]~~.

(6) The ***department***~~[cabinet]~~ may grant a reasonable extension of time for filing declarations and paying the estimated tax under such rules and regulations as it may prescribe. If any extension operates to postpone a payment of estimated tax, interest at the rate of eight percent (8%) per annum shall be collected.

Section 473. KRS 141.050 is amended to read as follows:

(1) Except to the extent required by differences between this chapter and its application and the federal income tax law and its application, the administrative and judicial interpretations of the federal income tax law, computations of gross income and deductions therefrom, accounting methods, and accounting procedures, for purposes of this chapter shall be as nearly as practicable identical with those required for federal income tax purposes. Changes to federal income tax law made after the Internal Revenue Code reference date contained in KRS 141.010(3) shall not apply for purposes of this chapter unless adopted by the General Assembly.

(2) Every person subject to the provisions of this chapter shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the ***department***~~[cabinet]~~ from time to time may prescribe. Whenever the ***department***~~[cabinet]~~ judges it necessary, it may require such person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the ***department***~~[cabinet]~~ deems sufficient to show whether or not such person is liable for tax, and the extent of such liability.

(3) The ***commissioner***~~[secretary]~~ or his authorized agent or representative, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any taxpayers, may require the attendance of the taxpayer or of any other person having knowledge in the premises.

(4) The ***department***~~[cabinet]~~ shall prescribe the forms and reports necessary to the proper administration of any and all provisions of this chapter, and shall promulgate such rules and regulations necessary to effectively carry out the provisions of this chapter.

Section 474. KRS 141.068 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;

(b) "Investor" has the same meaning as set forth in KRS 154.20-254;

(c) "Investment fund" has the same meaning as set forth in KRS 154.20-254;

(d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-254; and

(e) "Tax credit" means the credits provided for in KRS 154.20-258.

(2) (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under KRS 154.20-258 against the income tax due computed as provided by KRS 141.020 or 141.040, respectively.

(b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of KRS 154.20-258.

(3) (a) In the case of an investor that is an S-corporation, partnership, limited partnership, limited liability company, or limited liability partnership, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned among the shareholders, partners, or members thereof, as applicable, at the same ratio as the shareholders', partners', or members' distributive shares of income are determined for the tax year during which the amount of the credit is certified by the authority.

(b) The amount of the tax credit apportioned to each shareholder, partner, or member that may be claimed in any tax year of the shareholder, partner, or member shall be determined in accordance with the provisions of KRS 154.20-258.

(4) (a) In the case of an investor that is a trust, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.20-258.

(5) The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations under KRS Chapter 13A adopting forms and procedures for the reporting and administration of credits authorized by KRS 154.20-258.

Section 475. KRS 141.070 is amended to read as follows:

(1) Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of his net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited on his return with the income tax so paid by him to the other state, upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment, except that application of such credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored.

(2) An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020(4) if the laws of the state of which such individual was a resident at the time such income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to such state, if the state of residence of such nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner preclude the ***Department of*** Revenue[~~ Cabinet~~] from requiring any information reports pursuant to KRS 141.150(2).

Section 476. KRS 141.072 is amended to read as follows:

The designation for a political party shall appear on the face of the individual income tax return. Fifty cents ($0.50) of any designation pursuant to KRS 141.071 shall be reserved for remittance to the appropriate official of the local governing authority of the designated political party within the taxpayer's resident county. The remainder of the designation shall be reserved for remittance to the appropriate official of the state governing authority of the designated political party. The ***commissioner of the Department of Revenue***[~~secretary of revenue~~] shall annually certify by December 1 all such designated amounts to be paid by the State Treasurer, and the Treasurer shall annually remit by the following January 1 such funds to the appropriate official of the state and local governing authorities of the designated political party.

Section 477. KRS 141.073 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such rules and regulations as may be necessary to effectively administer the provisions of KRS 141.071 and 141.072.

Section 478. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the corporation and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the corporation's regular trade or business operations;

(b) "Commercial domicile" means the principal place from which the trade or business of the corporation is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "Nonbusiness income" means all income other than business income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;

(g) "Sales" means all gross receipts of the corporation not allocated under subsections (3) through (7) of this section;

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion its net income shall allocate and

apportion its net income as provided in this section.

(3) Rents and royalties from real, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (4) through (7) of this section.

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the corporation, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(d) Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.

(5) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the corporation's commercial domicile is in this state.

(6) Interest is allocable to this state if the corporation's commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.

(8) Except as provided for in subsection (9) of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used.

(a) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor.

1. Property owned is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero (0) the property shall be valued by the ***department***[~~cabinet~~] pursuant to administrative regulations promulgated by the ***department***[~~cabinet~~]. Property rented is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals, provided that the rental and subrentals are reasonable. If the ***department***[~~cabinet~~] determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero (0) rate is charged, the ***department***[~~cabinet~~] may determine and apply the rental rate as will reasonably reflect the value of the property rented by the corporation.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the ***department***[~~cabinet~~] may require the averaging of monthly values during the tax

period if reasonably required to reflect properly the average value of the property.

(b) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the corporation for compensation, and the denominator of which is the total compensation paid or payable by the corporation everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) 1. The sales factor is a fraction, the numerator of which is the total sales of the corporation in this state during the tax period, and the denominator of which is the total sales of the corporation everywhere during the tax period.

2. Sales of tangible personal property are in this state if:

a. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

b. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(9) (a) If the allocation and apportionment provisions of this section do not fairly represent the extent of the corporation's business activity in this state, the corporation may petition for or the ***department***[~~cabinet~~] may require, in respect to all or any part of the corporation's business activity, if reasonable:

1. Separate accounting;

2. The exclusion of any one (1) or more of the factors;

3. The inclusion of one (1) or more additional factors which will fairly represent the corporation's business activity in this state; or

4. The employment of any other method to effectuate an equitable allocation and apportionment of income.

(b) A corporation may elect the allocation and apportionment methods for the corporation's business income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.

1. All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:

a. Total business income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period.

b. For purposes of subdivision a. of this subparagraph, Kentucky receipts shall be determined by multiplying total receipts for the tax period from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

2. All business income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in KRS 154.655(2), shall be apportioned to this

state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:

a. The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year; and

b. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(10) Public service companies and financial organizations required by KRS 141.010(14)(b) to allocate and apportion net income shall allocate and apportion such income as follows:

(a) Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(b) Business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used. The payroll factor shall be determined as provided in subsection (8)(b) of this section. The property factor and sales factor shall be determined as provided by administrative regulations promulgated by the ***department***~~[cabinet]~~.

(c) An affiliated group electing to file a consolidated return under KRS 141.200(3) that includes a public service company or financial organization shall determine the amount of payroll to be included in the apportionment factor as provided in subsection (8)(b) of this section. The amount of property and sales of the public service company or financial organization to be included in the apportionment factors of the affiliated group shall be determined in accordance with administrative regulations promulgated by the ***department***~~[cabinet]~~ under paragraph (b) of this subsection.

Section 479. KRS 141.150 is amended to read as follows:

(1) Every corporation subject to the jurisdiction of this state, unless excused by the ***department***~~[cabinet]~~, shall render a correct report of its payments of dividends to residents of this state, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(2) Every person subject to the jurisdiction of this state, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries and employers, making payment to another person, domiciled in this state, of interest, rent, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits and income not subject to withholding provisions contained in KRS 141.310 of six hundred dollars ($600) or more in any taxable year, shall render a true and accurate report to the ***department***~~[cabinet]~~ of the payments made. Every person subject to the jurisdiction of this state, in whatever capacity acting, making payment of wages to another person domiciled in this state, shall render a true and accurate report to the ***department***~~[cabinet]~~ of the payments made. In the case of such payments made by the state and its political subdivisions, the officers or employees having information as to such payments designated by the ***department***~~[cabinet]~~ by the regulations hereinafter provided for shall make such reports. The reports shall be made under the regulations and in the form and manner and to the extent prescribed by the ***department***~~[cabinet]~~, and shall set forth the amount of the gains, wages, profits and income, and the name and address of the recipient of the payments. The ***department***~~[cabinet]~~ may also require any person to make information reports respecting nonresidents it believes to be subject to income tax.

(3) The reports contemplated by this section may be required, regardless of amounts, in the case of payments of dividends or interest upon bonds, mortgages, deeds of trust or other similar obligations of corporations. When necessary to make effective the provisions of this section, the name and address of the recipient of the income shall be furnished upon demand of the person paying the income. The provisions of this section shall not apply to the payment of interest on obligations of the United States or of this state, or the political subdivisions thereof.

Section 480. KRS 141.160 is amended to read as follows:

(1) All returns of income for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns of income shall be supplied by the ***department***~~[cabinet]~~.

(2) Whenever, in the opinion of the ***department***~~[cabinet]~~, it is necessary to examine the federal income tax return or a copy thereof of any taxpayer in order to audit his return, the ***department***~~[cabinet]~~ may compel the taxpayer to produce for inspection a copy of his federal return and all statements and schedules in support thereof. The ***department***~~[cabinet]~~ may also require copies of reports of adjustments made by the federal government.

Section 481. KRS 141.170 is amended to read as follows:

(1) The ***Department of*** Revenue[~~Cabinet~~] may grant any taxpayer other than a corporation a reasonable extension of time for filing an income tax return whenever good cause exists, and shall keep a record of every extension. Except in the case of an individual who is abroad, no extension shall be granted for more than six (6) months. In the case of an individual who is abroad, the extension shall not be granted for more than one (1) year.

(2) A corporation may be granted an extension of not more than six (6) months for filing its income tax return, provided the corporation, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.

(3) If the time for filing a return is extended, the taxpayer shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed with the ***department***[~~cabinet~~].

Section 482. KRS 141.180 is amended to read as follows:

(1) Every individual, except as otherwise provided in this section, having for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000), if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds five thousand dollars ($5,000) shall make to the ***department***[~~cabinet~~] a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

(2) Any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be required to make a return only if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000). Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars ($5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

(3) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000).

(4) Notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of five thousand dollars ($5,000) or more, shall make a return.

(5) Any nonresident individual with gross income from Kentucky sources and a total gross income of five thousand dollars ($5,000) or over shall make a return.

(6) A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.

(7) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:

(a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section 6015 of the Internal Revenue Code; or

(b) It is shown that the spouse would have qualified for relief under the provisions of Section 6015 of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability.

(8) Any relief granted pursuant to paragraphs (a) and (b) of subsection (7) of this section shall not result in a tax overpayment to the spouse requesting relief.

(9) Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

Section 483. KRS 141.190 is amended to read as follows:

(1) Every fiduciary, except a receiver appointed by authority of law in possession of part only of the property of an individual, shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, setting forth therein such information as may be prescribed by the ***department***[~~cabinet~~]:

(a) Every individual having an adjusted gross income for the taxable year which exceeds five thousand dollars ($5,000);

(b) Every estate the gross income of which for the taxable year is twelve hundred dollars ($1,200) or over;

(c) Every trust the gross income of which for the taxable year is one hundred dollars ($100) or over.

(2) Any fiduciary required to make a return under this chapter shall be subject to all the provisions of this chapter that apply to individuals.

Section 484. KRS 141.200 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;

(b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;

(c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter.

(2) Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year, a member of an affiliated group electing to file a consolidated return in accordance with subsection (3) of this section.

(3) (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.

(b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income in accordance with KRS 141.010(13), and in determining the property, payroll, and sales factors in accordance with KRS 141.120.

(c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the ***department***[~~cabinet~~] and shall be submitted to the ***department***[~~cabinet~~] on or before the due date of the return including extensions for the first taxable year for which the election is made.

(d) Any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the ***department***[~~cabinet~~] and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the ninety-sixth consecutive calendar month expires.

(e) For each taxable year for which an affiliated group has made an election in accordance with paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.

(4) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.

(5) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The ***Department of*** Revenue[~~ Cabinet~~] may require a further or supplemental report of further information and data necessary for computation of the tax.

(6) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the ***department***[~~cabinet~~] shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible such assessment, the ***department***[~~cabinet~~] may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The ***department***[~~cabinet~~] may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

(7) For any taxable year ending on or after December 31, 1995, except as provided under subsection (3) of this section, nothing in this chapter shall be construed as allowing or requiring the filing of:

(a) A combined return under the unitary business concept; or

(b) A consolidated return.

(8) No assessment of additional tax due for any taxable year ending on or before December 31, 1995, made after December 22, 1994, and based on requiring a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(9) No claim for refund or credit of a tax overpayment for any taxable year ending on or before December, 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(10) No corporation or group of corporations shall be allowed to file a combined return under the unitary business concept or a consolidated return for any taxable year ending before December 31, 1995, unless on or before December 22, 1994, the corporation or group of corporations filed an initial or amended return under the unitary business concept or consolidated

return for a taxable year ending before December 22, 1994.

(11) This section shall not be construed to limit or otherwise impair the ***department's***[~~cabinet's~~] authority under KRS 141.205.

Section 485. KRS 141.205 is amended to read as follows:

(1) The ***department***[~~cabinet~~] may require either a consolidated return or a combined return from any or all corporations conducting inter-corporate transactions whenever the ***department***[~~cabinet~~] finds that such inter-corporate transactions reduce taxable net income, as defined in KRS 141.010(14), of the corporation(s) below the amount which would result if the transactions were at arm's length.

(2) The ***department***[~~cabinet~~] is authorized and empowered to assess the tax against any of the corporations whose income is included in the consolidated or combined return in such manner as it may determine necessary to prevent the avoidance of income tax.

(3) In the case of corporations not required to file a consolidated or combined return under subsection (1) of this section that carried on transactions with stockholders or affiliated corporations directly or indirectly, the ***department***[~~cabinet~~] shall adjust the net income of such corporations to an amount that would result if such transactions were carried on at arm's length.

Section 486. KRS 141.206 is amended to read as follows:

(1) Every partnership or S corporation owning property or engaging in business in Kentucky, shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal partnership return or S corporation return with the form prescribed and furnished by the ***department***[~~cabinet~~].

(2) Partnerships and S corporations shall determine taxable income in the same manner as in the case of an individual under KRS 141.010(9) to (11) and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of taxable income under this section and the computation of the partners or shareholders distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(3) Individuals or corporations carrying on a business as a partnership or S corporation shall be liable for income tax only in their individual or corporate capacities, and no income tax shall be assessed upon the income of any partnership or S corporation except as prescribed in KRS 141.040(5).

  (a) Resident and nonresident individuals who are partners or S corporation shareholders must report and pay tax on the distributive share of net income, gain, loss, deduction, or credit, as determined in subsection (2) of this section, except as provided in subsections (4) and (5) of this section. Partnerships and S corporations may be required to withhold Kentucky income tax on the distributive share under administrative regulations issued by the ***department***[~~cabinet~~].

  (b) Corporations which are partners must include their distributive share of net income, gain, loss, deduction or credit, as determined under subsection (2) of this section, except as provided in subsections (4) and (5) of this section.

(4) Resident and nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation carrying on business only in Kentucky are taxable on all items of income gain, loss, deduction or credit determined under subsection (2) of this section and reported as their distributive share from the partnership or S corporation.

(5) Nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation which does business within and without Kentucky are taxable on their proportionate share of the distributive income passed through the partnership or S corporation attributable to business done in Kentucky.

  (a) Business done in Kentucky is determined by the ratio of gross receipts from sales to purchasers or customers in Kentucky or services performed in Kentucky to the total gross receipts from sales or service everywhere.

(6) Resident partners, S corporation shareholders and corporations which are partners in a multistate partnership or shareholders in a multistate S corporation are taxable on one hundred percent (100%) of the distributive share of income, gains, losses, deductions or credits.

(7) Resident individuals who are partners in a partnership or shareholders in an S corporation which does not carry on business in Kentucky are subject to tax under KRS 141.020 on federal net income, gain, deduction, loss or credit passed through the partnership or S corporation.

(8) S corporation for purpose of this section means a corporation which has elected for federal tax purposes to be taxed as an S corporation. An election for federal tax purposes is a binding election for Kentucky tax purposes.

(9) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection a "qualified investment partnership" means a partnership formed to hold only investments that produce income that would not be taxable to the nonresident individual if held or owned individually.

Section 487. KRS 141.210 is amended to read as follows:

(1) As used in this section and KRS 141.235, unless the context requires otherwise:

(a) "Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income as reported on the taxpayer's federal income tax return become final and unappealable; and

(b) "Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

(2) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the taxpayer, the additional tax shall be assessed and a notice of assessment mailed to the taxpayer by the ***department***[~~cabinet~~] within four (4) years from the date the return was filed, except as otherwise provided in this subsection.

(a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.

(b) In the case of a return where a taxpayer other than a corporation understates his net income or omits an amount properly includable in net income or both which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net income stated in the return the additional tax may be assessed at any time within six (6) years after the return was filed.

(c) In the case of a return where a corporation understates its taxable net income or omits an amount properly includable in taxable net income or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of taxable net income stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.

(d) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six months from the date the ***department***[~~cabinet~~] receives the final determination of the federal audit from the taxpayer, whichever is later.

(e) In the case of the assessment of additional tax resulting from a decrease of a net operating loss deduction or a capital loss deduction, resulting from the carryback of a loss which occurs in a taxable year beginning after December 31, 1993, the additional tax may be assessed at any time before the expiration of the times provided for in this subsection for assessing additional tax for the taxable year which resulted in the net operating loss or capital loss carryback.

The times provided in this subsection may be extended by agreement between the taxpayer and the ***department***[~~cabinet~~]. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. For taxable years beginning after December 31, 1993, any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(3) If any additional tax is assessed on account of any income which has been returned for taxation by any other taxpayer, the ***department***[~~cabinet~~], with the consent of the other taxpayer, his personal representatives, or heirs, shall reduce the amount of the additional tax assessed for each year by the amount of the income tax paid for that year by the other taxpayer on account of the income in question.

(4) Every taxpayer shall:

(a) Notify the ***department***[~~cabinet~~] in writing of every audit of the taxpayer's federal income tax return within thirty (30) days after the taxpayer has or should have had knowledge of the beginning of the audit by the Internal Revenue Service, and

(b) Submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.

Section 488. KRS 141.220 is amended to read as follows:

The full amount of the unpaid tax payable by any taxpayer, as appears from the face of the return, shall be paid to the ***department***[~~cabinet~~] at the time prescribed for filing the income tax return, determined without regard to any extension of time for filing the return.

Section 489. KRS 141.235 is amended to read as follows:

(1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.

(2) Any tax collected pursuant to the provisions of this chapter may be refunded or credited in accordance with the provisions of KRS 134.580, except that:

(a) In any case where the assessment period contained in KRS 141.210 has been extended by an agreement between the taxpayer and the ***department***[~~cabinet~~], the limitation contained in this subsection shall be extended accordingly.

(b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the taxpayer shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.

(c) If the claim for refund or credit relates to an overpayment attributable to a net operating loss carryback or capital loss carryback, resulting from a loss which occurs in a taxable year beginning after December 31, 1993, the claim for refund or credit shall be filed within the times prescribed in this subsection for the taxable year of the net operating loss or capital loss which results in the carryback.

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(3) Overpayments of taxes collected pursuant to KRS 141.300, 141.310, or 141.315 shall be refunded or credited with interest at the tax interest rate as defined in KRS 131.010(6). The interest shall not begin to accrue until ninety (90) days after the tax was paid, the return was filed, or the last day prescribed by law for filing the return, whichever is later.

(4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested in the ***commissioner***[~~secretary~~] or his authorized agent. Amounts directed to be refunded shall be paid out of the general fund.

Section 490. KRS 141.300 is amended to read as follows:

(1) Every individual shall, at the time prescribed in subsection (3), make a declaration of his estimated tax for the taxable year if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed five thousand dollars ($5,000) for the taxable year and his gross income or adjusted gross income can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180. No declaration of estimated tax shall be required if the estimated tax liability can reasonably be expected to be five hundred dollars ($500) or less.

(2) In the declaration required under subsection (1), the individual shall state:

(a) The amount which he estimates as the amount of tax under KRS 141.020 for the taxable year;

(b) The amount which he estimates as the credits for the taxable year under KRS 141.310, 141.315, and 141.065;

(c) The excess of the amount estimated under paragraph (a) over the amount estimated under paragraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year; and

(d) Other information as may be prescribed in administrative regulations promulgated by the ***department***[~~cabinet~~].

(3) The declaration required under subsection (1) shall be filed with the ***department***[~~cabinet~~] on or before April 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year; or

(b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year; or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(4) An individual may amend a declaration filed during the taxable year under subsection (3) pursuant to administrative regulations prescribed by the ***department***[~~cabinet~~].

(5) If, on or before January 31 of the succeeding taxable year an individual files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable, then, under administrative regulations prescribed by the ***department***[~~cabinet~~]:

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15 of the taxable year, the return shall, for the purposes of this section, be considered as the declaration; and

(b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, the return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) to be filed on or before January 15 of the taxable year.

(6) The ***department***[~~cabinet~~] shall promulgate administrative regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of an individual who is abroad, no extension shall be for more than six (6) months.

(7) If an individual is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian, conservator, or other person charged with the care of the person or property of the individual.

(8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

Section 491. KRS 141.305 is amended to read as follows:

(1) The estimated tax provided for in KRS 141.300 shall be paid as follows:

(a) If the declaration is filed on or before April 15 of the taxable year, the estimated tax shall be paid in four (4) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year;

(b) If the declaration is filed after April 15 and not after June 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three (3) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on

September 15 of the taxable year, and the third on January 15 of the succeeding taxable year;

(c) If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) equal installments. The first installment shall be paid at the time of the filing of the declaration and the second on January 15 of the succeeding taxable year;

(d) If the declaration is filed after September 15 of the taxable year, and is not required by subsection (3) of KRS 141.300 to be filed on or before September 15 of the taxable year, the declaration shall be filed and estimated tax shall be paid on or before January 15 of the succeeding taxable year;

(e) If the declaration is filed after the time prescribed in KRS 141.300, including cases where extensions of time have been granted, paragraphs (b), (c), and (d) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration has been filed within the time prescribed in subsection (3) of KRS 141.300, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed. Provided, that payments required under this section for purposes of the taxable year 1954 shall be limited to fifty percent (50%) of the total estimated tax for 1954.

(2) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the respective increase or decrease in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year any increase in the estimated tax by reasons thereof shall be paid at the time of making such amendment.

(3) At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(4) Payment of the estimated tax, or any installment thereof, shall be considered payment on account of the tax for the taxable year. Assessment in respect of the estimated tax shall be limited to the amount paid.

(5) In the case of an individual whose estimated gross income from farming for the taxable year is at least two-thirds (2/3) of the total estimated gross income from all sources for the taxable year, in lieu of the time prescribed in subsection (3) of KRS 141.300, the declaration for the taxable year may be made at any time on or before January 15 of the succeeding taxable year; and if such an individual files a return on or before March 1 of the succeeding taxable year, and pays in full the amount computed on the return as payable, such return shall have the same effect as that prescribed in subsection (5) of KRS 141.300 in the case of a return filed on or before January 31.

(6) The application of this section and KRS 141.300 to taxable years of less than twelve (12) months shall be as prescribed in administrative regulations promulgated by the ***department***[~~cabinet~~].

(7) In the application of this section and KRS 141.300 to taxpayers reporting income on a fiscal year basis, there shall be substituted for the date specified therein, the months corresponding thereto.

Section 492. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the ***department***[~~cabinet~~] shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The ***department***[~~cabinet~~] may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the ***department***[~~cabinet~~] at least thirty (30) days before the first payroll period for which it is to be used.

(7) The ***department***[~~cabinet~~] may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

(8) The ***department***~~[cabinet]~~ may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

(10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.22-070 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.

(11) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated, the offset shall be one hundred percent (100%) of the assessment fee.

(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).

(13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the ***department***~~[cabinet]~~. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the ***department***~~[cabinet]~~, but shall not exceed fifty thousand dollars ($50,000).

(14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 493. KRS 141.315 is amended to read as follows:

If payment of wages is made to an employee by an employer:

(1) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

(2) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer; or

(3) With respect to a period beginning in one (1) and ending in another calendar year; or

(4) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays, the wages payable by another employer to such employee, the manner of withholding and the amount to be deducted and withheld under KRS 141.310 shall be determined in accordance with regulations promulgated by the ***department***~~[cabinet]~~ under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

Section 494. KRS 141.325 is amended to read as follows:

(1) An employee receiving wages shall on any day be entitled to the following withholding exemptions:

(a) One (1) exemption for himself;

(b) One (1) exemption for each dependent for whom he would be entitled to a tax credit under the provisions of KRS 141.020(3)(c);

(c) If the employee is married, the exemption to which his spouse is entitled, or would be entitled if such spouse were an employee, under subparagraph (a) of this subsection, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;

(d) Such other withholding exemptions as the ***department***~~[cabinet]~~ may prescribe by regulation.

(2) Every employee shall, on or before July 1, 1954, or before the date of commencement of employment, whichever is later, furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which in no event shall exceed the number to which he is entitled.

(3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished; provided, that certificates furnished before July 1, 1954, shall be considered as furnished on that date.

(4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.

(5) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such time as the ***department***[~~cabinet~~] may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten (10) days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

(7) Withholding exemption certificates shall be in such form and contain such information as the ***department***[~~cabinet~~] may by regulations prescribe.

Section 495. KRS 141.330 is amended to read as follows:

(1) Every employer required to deduct and withhold tax under KRS 141.310 and 141.315 shall, for the quarterly period beginning on the first day of January of each year, and for each quarterly period thereafter, on or before the last day of the month following the close of each quarterly period make a return and report to the ***department***[~~cabinet~~] the tax required to be withheld under KRS 141.310 and 141.315, unless the employer is permitted or required to report monthly or annually. Such employer shall, on or before the last day of the month following the close of each quarterly period, pay over to the ***department***[~~cabinet~~] the tax required to be withheld under KRS 141.310 and 141.315; Provided, however, That the ***department***[~~cabinet~~] may, by regulations, require employers to remit the tax withheld under KRS 141.310 and 141.315 within a reasonable time after the payroll period or other period. A return shall be filed by every employer making payment of wages even though no tax has been withheld.

(2) If the ***department***[~~cabinet~~], in any case, has reason to believe that the collection of the tax provided for in subsection (1) of this section is in jeopardy, it may require the employer to make such return and pay such tax at any time.

(3) Every employer, who fails to withhold or pay to the ***department***[~~cabinet~~] any sums required by this chapter to be withheld and paid, shall be personally and individually liable therefor to the Commonwealth; and any sum or sums withheld in accordance with the provisions of KRS 141.310 and 141.315 shall be deemed to be held in trust for the Commonwealth.

(4) The Commonwealth shall have a lien upon all the property of any employer who fails to withhold or pay over to the ***department***[~~cabinet~~] sums required to be withheld under KRS 141.310 and 141.315. If the employer withholds but fails to pay the amounts withheld to the ***department***[~~cabinet~~], the lien shall accrue as of the date the amounts withheld were required to be paid to the ***department***[~~cabinet~~]. If the employer fails to withhold, the lien shall accrue at the time the liability of the employer becomes fixed.

Section 496. KRS 141.335 is amended to read as follows:

(1) Every person required to deduct and withhold from an employee a tax under KRS 141.310 or 141.315, or who would have been required to deduct and withhold a tax under KRS 141.310 or 141.315 if the employee had claimed no more than one (1) withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

(a) the name of such person;

(b) the name of the employee and his social security account number;

(c) the total amount of wages as defined in KRS 141.010; and

(d) the total amount deducted and withheld as tax under KRS 141.310 and 141.315.

(2) The statement required to be furnished by this section in respect of any wages shall be furnished at such other times, shall contain such other information, and shall be in such form as the ***department***[~~cabinet~~] may by regulations prescribe. A duplicate of such statement if made and filed in accordance with regulations prescribed by the ***department***[~~cabinet~~] shall constitute the return required to be made in respect of such wages under KRS 141.150.

(3) The ***department***[~~cabinet~~] may promulgate regulations providing for reasonable extensions of time, not in excess of thirty (30) days, to employers required to furnish statements under this section.

Section 497. KRS 141.345 is amended to read as follows:

(1) Where there has been an overpayment of tax under KRS 141.310 or 141.315, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld under KRS 141.310 or 141.315 by the employer.

(2) Unless written application for refund or credit is received by the ***department***[~~cabinet~~] from the employer within four (4) years from the date the overpayment was made, no refund or credit shall be allowed.

Section 498. KRS 141.347 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.22-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.22-010;

(c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-070.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.22-050.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.22-050.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire

facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue~~[Cabinet]~~.

(9) The ***Department of*** Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.22-020 to 154.22-070 and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070.

Section 499. KRS 141.370 is amended to read as follows:

The tax levied under KRS 141.020 and required to be withheld under KRS 141.310, unless determined by KRS 141.315, shall be withheld in accordance with the tables provided in regulations promulgated by the ***department***~~[cabinet]~~.

Section 500. KRS 141.380 is amended to read as follows:

(1) There shall be allowed as a credit against the taxes imposed by KRS 141.020 and 141.040 an amount equal to fifteen percent (15%) of the expenditures, including installation cost, but excluding any finance charges, for qualifying energy property installed on premises in Kentucky which are owned or controlled by the taxpayer. The maximum credit which may be claimed by any taxpayer shall be fifteen hundred dollars ($1,500) during the period specified in subsection (13) of this section. A system or component or piece of equipment shall not be eligible more than once for the credit provided in this section.

(2) The credit in this section may be claimed for the taxable year in which the installation is completed. The credit may be claimed only for expenditures made during the taxable year for which the credit is claimed or during the immediately preceding taxable year, but not for expenditures made before January 1, 1983.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either, or divided equally, but the combined credit shall not exceed fifteen hundred dollars ($1,500).

(4) In the case of a partnership, of which one (1) or more of the partners are liable for the tax imposed under KRS 141.020, the amount of the credit each partner may claim shall be allocated in the same ratio as profits and losses are shared in the partnership, but the combined credit shall not exceed fifteen hundred dollars ($1,500).

(5) A builder who installs qualifying energy property in a building constructed for resale may elect himself to claim the credit allowed in this section, or may provide the purchaser with necessary documentation or certification so that the purchaser may claim the credit. The credit shall not be claimed by both the builder and the purchaser.

(6) In the case where the credit allowed in this section exceeds the tax due for the taxable year, that portion of the credit which exceeds the tax due may be carried over to the succeeding taxable years until the allowable credit has been fully exhausted, or until the credit has been claimed for three (3) successive years, whichever comes first.

(7) This tax credit shall not apply to trusts or estates.

(8) Before any tax credit can be claimed under the provisions of this section, the Natural Resources and Environmental Protection Cabinet must certify that the taxpayer's system is a viable system for using solar, wind or geothermal energy and documentation must be provided that the system has been completely installed. Any fee charged by the ***Natural Resources and Environmental Protection Cabinet***~~[cabinet]~~ for review and certification of a system shall not exceed ten dollars ($10).

(9) The Natural Resources and Environmental Protection Cabinet may promulgate such rules and regulations as necessary to maintain commonly accepted energy equipment standards, to effectively conform to the definition of qualifying energy property in KRS 141.375 and to administer the certification requirements in this section. The regulations, including those describing the application procedure, shall be written in nontechnical language understandable to lay citizens untrained in engineering, architecture, or other technical fields.

(10) With the exception of the certification requirements delegated to the Natural Resources and Environmental Protection Cabinet by this section, the ***Department of*** Revenue~~[Cabinet]~~ may promulgate such rules and regulations as necessary to effectively administer the requirements of KRS 141.375 and this section.

(11) All regulations necessary to implement KRS 141.375 and this section shall be filed with the Legislative Research Commission in accordance with KRS Chapter 13A by September 1, 1984.

(12) The ***Department of*** Revenue~~[Cabinet]~~ shall report as to the impact of KRS 141.375 and this section to the 1986 General Assembly and to the appropriate interim committee preceding the 1986 General Assembly. The report shall include the number and amount of the qualifying energy credits claimed, an estimate of the distribution by income group, the net revenue gain or loss to the Commonwealth attributable to the credits, and such other information as the ***Department of***

Revenue[~~ Cabinet~~] deems pertinent to an analysis of KRS 141.375 and this section.

(13) The provisions of KRS 141.375 and this section shall apply to the taxable years beginning on or after January 1, 1984, and ending on or before December 31, 1986, and no credit shall be allowed for any taxable year ending after December 31, 1986.

Section 501. KRS 141.390 is amended to read as follows:

(1) As used in this section:

(a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;

(b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials; and

(c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in a environmentally acceptable manner.

(2) A taxpayer who purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

(3) Application for a tax credit shall be made to the ***Department of*** Revenue[~~ Cabinet~~] on or before July 1 of the year following the calendar year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the ***Department of*** Revenue[~~ Cabinet~~] may require. The ***Department of*** Revenue[~~ Cabinet~~] shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.

Section 502. KRS 141.400 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010; and

(c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.28-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, trust, or limited liability company treated as a partnership for federal income tax purposes shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.28-090.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.

Section 503. KRS 141.401 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.23-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.23-010; and

(c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-079.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company that is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.

(4) Notwithstanding any other provisions of this chapter, an approved company that is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2), as follows:

(a) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made in this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(b) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.

(c) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(d) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.23-005 to 154.23-079 and the allowable income tax credit that an approved company may retain under KRS 154.23-005 to 154.23-079.

Section 504. KRS 141.403 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.26-010;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic revitalization project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic revitalization project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.26-090.

(d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) .The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 505. KRS 141.405 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" has the same meaning as set forth in KRS 154.12-2084; and

(b) "Skills training investment credit" has the same meaning as set forth in KRS 154.12-2084.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) (a) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14);

(b) The amount of the skills training investment credit that the Bluegrass State Skills Corporation has given final approval for under KRS 154.12-2088(6) shall be applied against the amount of the tax computed under paragraph (a) of this subsection; and

(c) The skills training investment credit payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under KRS 154.12-2088(6).

(4) (a) In the case of an approved company which is an S-corporation or partnership the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned among the shareholders or partners thereof at the same ratio as the shareholders' or partners' distributive shares of income are determined for the tax year during which the final authorization resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).

(b) The amount of the tax credit apportioned to each shareholder or partner that may be claimed in any tax year of the shareholder or partner shall be determined in accordance with the provisions of KRS 154.12-2086.

(5) (a) In the case of an approved company that is a trust, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.12-2086.

(6) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations in accordance with KRS Chapter 13A adopting forms and procedures for the reporting of the credit allowed in KRS 154.12-2084 to 154.12-2089.

Section 506. KRS 141.407 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.24-010;

(b) "Economic development project" shall have the same meaning as economic development project as set forth in KRS 154.24-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.

(d) If the tax computed herein exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under KRS 154.24-010 to 154.24-150.

Section 507. KRS 141.414 is amended to read as follows:

(1) A qualified farming operation which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from the qualified farming operation's participation in a networking project.

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to the qualified farming operation's participation in a networking project; and

(c) Be entitled to a tax credit in the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410.

(2) Notwithstanding any other provisions of this chapter, a qualified farming operation which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to its participation in a networking project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(3) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (2) of this section shall be excluded in determining each shareholder's, partner's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, or trust.

(4) If the networking entity is a separate facility, net income attributable to the project for the purposes of subsections (1), (2), and (3) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the project and overhead expenses apportioned to the project.

(5) If the networking project is an expansion to a previously existing farming operation, net income attributable to the entire operation shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the farming operation's participation in the networking project and overhead expenses apportioned to the networking project, and the net income attributable to the networking project for the purposes of subsections (1), (2), and (3) of this section shall be determined by apportioning the separate accounting net income of the entire networking project to the networking project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(6) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved farming operation are such that it is not practical to use the separate accounting method to determine the net income from the networking project, the approved farming operation shall determine net income from its participation in the networking project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(7) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations pursuant to KRS Chapter 13A and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] necessary to effectuate KRS 141.0101 and KRS 141.410 to 141.414 and the allowable income tax credit which an approved farming operation may retain under the provisions of KRS 141.412 and this section.

Section 508. KRS 141.415 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" has the same meaning as set forth in KRS 154.34-010;

(b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.34-080.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from a reinvestment project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to a reinvestment project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.34-080.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to a reinvestment project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.34-080.

(d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the S corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries, shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiary's distributive share of net income or credit of an S corporation, partnership, registered limited liability partnership, limited liability company or trust.

(6) If the reinvestment project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the reinvestment project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the reinvestment project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the reinvestment project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the reinvestment project is located, the approved company shall determine net income from the reinvestment project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable income tax credit which an approved company may retain under KRS 154.34-010 to 154.34-100.

Section 509. KRS 141.416 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.34-010 to KRS 154.34-100 and subject to license tax under KRS 136.070;

(b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.34-080.

(2) The tax credit shall equal the computed license tax attributable to the location of a reinvestment project; however, the credit shall not exceed the limits set forth in KRS 154.34-080.

(3) The license tax attributable to a reinvestment project shall be determined by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(4) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable tax

credit which an approved company may retain under KRS 154.34-010 to 154.34-100.

Section 510. KRS 141.442 is amended to read as follows:

(1) Effective for the tax year beginning January 1, 1990, and for each tax year thereafter, any individual who is entitled to a tax refund sufficient to make a designation under this section may designate an amount, not to exceed the amount of the refund, to be paid to the Bluegrass State Games and United States Olympic Committee fund. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to the fund. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the state individual income tax return.

(3) The ***commissioner of the Department of Revenue***[~~secretary of revenue~~] shall certify by December 1, 1990, and by December 1 of each year thereafter, all such designated amounts to be paid by the State Treasurer. The Treasurer shall remit by January 1, 1991, and by January 1 of each year thereafter, on an equal share basis, all moneys paid into the fund during the preceding tax year, to the appropriate officials designated by the governing bodies of the Bluegrass State Games and the United States Olympic Committee, respectively.

(4) If the governing body of either the Bluegrass State Games or the United States Olympic Committee ceases to exist and function in this state, then any funds to be made available to such governing body, pursuant to subsection (3) of this section, shall be paid over to the governing body representing the remaining organization.

Section 511. KRS 141.460 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall print on the face of the Kentucky individual income tax form a space for a taxpayer to designate that a contribution be made to the Kentucky Nature and Wildlife Fund from that taxpayer's income tax refund. The space for designating the contribution shall be in substantially the following form:

KENTUCKY NATURE AND WILDLIFE FUND. I wish to contribute

$2----- $5----- $10----- $-----

of my TAX REFUND TO THE KENTUCKY NATURE AND WILDLIFE FUND.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall print in the instructions accompanying the individual income tax form a description of the purposes for which the Kentucky Nature and Wildlife Fund was established and the use of moneys from the income tax check-off.

Section 512. KRS 141.465 is amended to read as follows:

The ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] shall transfer fifty percent (50%) of the funds designated in KRS 141.460 to the nongame fish and wildlife fund created by KRS 150.165 and fifty percent (50%) to the Kentucky nature preserves fund created by KRS 146.520 and shall reduce the amount of the income tax refund by the amount designated. Moneys in each fund shall be placed in an interest-bearing account.

Section 513. KRS 141.475 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such rules and regulations as may be necessary to effectively administer the provisions of KRS 141.455 to 141.470.

Section 514. KRS 141.985 is amended to read as follows:

If the tax imposed by this chapter, whether assessed by the ***department***[~~cabinet~~], or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the ***department***[~~cabinet~~]. Interest shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Section 515. KRS 141.990 is amended to read as follows:

(1) Any individual, fiduciary, corporation, employer, or other person who violates any of the provisions of this chapter shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(2) Any individual required by KRS 141.300 to file a declaration of estimated tax and required by KRS 141.305 to pay the declaration of estimated tax shall be subject to a penalty as provided in KRS 131.180 for any declaration underpayment or any late payment. Underpayment, for purposes of this subsection, is determined by subtracting declaration credits allowed by KRS 141.070, declaration installment payments actually made, and credit for tax withheld as allowed by KRS 141.350 from seventy percent (70%) of the total income tax liability computed by the taxpayer as shown on the return filed for the tax year. This subsection shall not apply to the tax year in which the death of the taxpayer occurs, nor in the case of a farmer exercising an election under subsection (5) of KRS 141.305, nor in the case of any person having a tax liability of two hundred dollars ($200) or less.

(3) Any corporation required by KRS 141.042 to file a declaration of estimated tax and required to pay the declaration of estimated tax by the installment method prescribed by subsection (1) of KRS 141.044 shall be subject to a penalty as provided in KRS 131.180 for any declaration underpayment or any installment not paid on time. Declaration

underpayment, for purposes of this subsection, is determined by subtracting five thousand dollars ($5,000) and declaration payments actually made from seventy percent (70%) of the total income tax liability computed by the taxpayer on the return filed for the tax year.

(4) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the state from the taxpayer or other person liable therefor.

(5) In addition to the penalties herein prescribed, any taxpayer or employer, who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.

(6) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under this chapter of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, shall be guilty of a Class D felony.

(7) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the ***department***[~~cabinet~~] and required to be filed with the ***department***[~~cabinet~~] by the provisions of this chapter, or by the rules and regulations of the ***department***[~~cabinet~~] or by written request for information to the taxpayer by the ***department***[~~cabinet~~].

Section 516. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

(a) A tax of three dollars and fifty cents ($3.50) on each marriage license;

(b) A tax of three dollars ($3) on each power of attorney to convey real or personal property;

(c) A tax of three dollars ($3) on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate of title under KRS 186A.190;

(d) A tax of three dollars ($3) on each conveyance of real property; and

(e) A tax of three dollars ($3) on each lien or conveyance of coal, oil, gas, or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the issuance of a marriage license or the original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section shall be reported and paid to the ***Department of*** Revenue[~~ Cabinet~~] by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the ***department***[~~cabinet~~].

(4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 517. KRS 142.015 is amended to read as follows:

The county clerk, in each county, shall be allowed five percent (5%) commission on the amounts collected for state taxes on legal processes and instruments provided for under KRS 142.010, said five percent (5%) commission to be retained by the county clerk on said sums reported to the ***Department of*** Revenue[~~ Cabinet~~] and paid by the county clerk into the State Treasury.

Section 518. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument, or writing other than a will and other than a lease or easement, regardless of where made, executed, or delivered, by which any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents ($0.50) for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect the amount as prerequisite to

acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The ***Department of*** Revenue[~~ Cabinet~~] may prescribe regulations necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to the deed shall, upon conviction, be fined $50 for each offense.

(7) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To, in the event of a deed of gift or deed with nominal consideration, or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or between former spouses as part of a divorce proceeding;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to:

1. Merger or consolidation between and among corporations, partnerships, including registered limited liability partnerships, limited partnerships, or limited liability companies; or

2. The conversion of a general partnership, including a registered limited liability partnership, or a limited partnership into a limited liability company;

(i) Between a subsidiary corporation and its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of either corporation's stock;

(j) Under a foreclosure proceeding;

(k) Between a person and a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the transferor of the property in the entity to which the property was transferred, if the transfer was for nominal consideration;

(l) Between parent and child or grandparent and grandchild, with only nominal consideration therefor;

(m) By a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company to a person as owner or shareholder of the entity, upon dissolution of the entity, in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the person to whom the property was transferred, if the transfer was for nominal consideration;

(n) Between a trustee and a successor trustee; and

(o) Between a limited liability company and any of its members.

(8) The tax imposed by subsection (2) of this section shall not apply to transfers to a trustee, to be held in trust, or from a trustee to a beneficiary of the trust if:

(a) The grantor is the sole beneficiary of the trust;

(b) The grantor is a beneficiary of the trust and a direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section; or

(c) A direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section.

(9) As used in this section, "trust" shall have the same definition as contained in KRS 386.800.

Section 519. KRS 142.301 is amended to read as follows:

As used in KRS 142.301 to 142.359:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~];

(2) "Charitable provider" means any provider which does not charge its patients for health-care items or services, and which does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state

government. The collaboration with public hospitals, agencies, or other providers in the delivery of patient care; affiliation with public institutions to provide health-care education; or the pursuit of research in cooperation with public institutions or agencies shall not be considered as the receipt of government support by a charitable provider;

(3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration or use by a patient or other individual entitled to receive the prescription drug;

(4) "Entity" means any firm, partnership, joint venture, association, corporation, company, joint stock association, trust, business trust, syndicate, cooperative, or other group or combination acting as a unit;

(5) "Gross revenues" means the total amount received in money or otherwise by a provider for the provision of health-care items or services in Kentucky, less the following:

- (a) Amounts received by any provider as an employee or independent contractor from another provider for the provision of health-care items or services if:
  - 1. The employing or contracting provider receives revenue attributable to health-care items or services provided by the employee or independent contractor receiving payment; and
  - 2. The employing or contracting provider is subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 on the receipt of that revenue;
- (b) Amounts received as a grant or donation by any provider from federal, state, or local government or from an organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code for:
  - 1. Research; or
  - 2. Administrative or operating costs associated with the implementation and operation of an experimental program;
- (c) Salaries or wages received by an individual provider as an employee of a charitable provider, the federal government, or any state or local governmental entity;
- (d) Salaries or wages received by an individual provider as an employee of a public university for the provision of services at a student health facility; and
- (e) Amounts received by an HMO on a fixed, prepayment basis as premium payments.

(6) "Health-care items or services" means:

- (a) Inpatient hospital services;
- (b) Outpatient hospital services;
- (c) Nursing-facility services;
- (d) Services of intermediate-care facilities for the mentally retarded;
- (e) Physicians' services provided prior to July 1, 1999;
- (f) Licensed home-health-care-agency services;
- (g) Outpatient prescription drugs; and
- (h) HMO services;

(7) "Health-maintenance organization" or "HMO" means an organization established and operated pursuant to the provisions of Subtitle 38 of KRS Chapter 304;

(8) "Hospital" means an acute-care, rehabilitation, or psychiatric hospital licensed under KRS Chapter 216B;

(9) "Hospital services" means all inpatient and outpatient services provided by a hospital. "Hospital services" does not include services provided by a noncontracted, university-operated hospital, or any freestanding psychiatric hospital, if necessary waivers are obtained by the Cabinet for Human Resources from the Health Care Financing Administration, or hospitals operated by the federal government;

(10) "Health services secretary" means the secretary of the Cabinet for Health Services or that person's authorized representative;

(11) "Inpatient hospital services," "outpatient hospital services," "intermediate-care-facility services for the mentally retarded," "physician services," "licensed home-health-care-agency services," and "outpatient prescription drugs" have the same meaning as set forth in regulations promulgated by the Secretary of the Department of Health and Human Services and codified at 42 C.F.R. pt. 440, as in effect on December 31, 1993;

(12) "Medicaid" means the state program of medical assistance as administered by the Cabinet for Health Services in compliance with 42 U.S.C. sec. 1396;

(13) "Nursing-facility services" means services provided by a licensed skilled-care facility, nursing facility, nursing home, or intermediate-care facility, excluding intermediate-care facilities for the mentally retarded;

(14) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other

group or combination acting as a unit and the legal successor thereof;

(15) "Provider" means any person receiving gross revenues for the provision of health-care items or services in Kentucky, excluding any facility operated by the federal government; and

(16) "***Commissioner***[~~Secretary~~]" means the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] or that person's authorized representative.

Section 520. KRS 142.317 is amended to read as follows:

Charitable providers as defined in KRS 142.301 shall be exempt from the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, as well as the provisions of KRS 142.321, 142.333, 142.341, and 142.343 upon providing proper certification to the ***department***[~~cabinet~~].

Section 521. KRS 142.321 is amended to read as follows:

(1) Every provider subject to the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 that is not registered with the ***department***[~~cabinet~~] pursuant to the provisions of KRS 142.221 shall, on July 15, 1994, file an application for a certificate of registration with the ***department***[~~cabinet~~]. A certificate of registration filed in accordance with the provisions of KRS 142.221 shall remain valid for purposes of KRS 142.301 to 142.359. Every provider seeking to provide health care items or services in Kentucky for the first time after July 15, 1994, shall, prior to providing these items or services, file an application for a certificate of registration with the ***department***[~~cabinet~~]. The application shall be in the form prescribed by the ***department***[~~cabinet~~]. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) Every state board responsible for licensing or governing any provider subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall, upon request by the ***department***[~~cabinet~~], provide any information available to the licensing board necessary for the administration of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311. The information shall be in the form required by the ***department***[~~cabinet~~] and shall be used by the ***department***[~~cabinet~~] for the sole purpose of administering the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311.

(3) Every state board responsible for licensing or governing any provider subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall, upon request by the ***department***[~~cabinet~~], include the application for certificate of registration required by subsection (1) of this section with any new license issued. Application forms shall be provided by the ***department***[~~cabinet~~] to the licensing board.

Section 522. KRS 142.323 is amended to read as follows:

The taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 are due and payable to the ***department***[~~cabinet~~] monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

Section 523. KRS 142.327 is amended to read as follows:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the ***department***[~~cabinet~~] in the form prescribed by the ***department***[~~cabinet~~], together with payment of any tax due.

(2) A return shall be filed by every provider. The return shall be signed by the person required to file the return or a duly-authorized agent.

(3) The return shall show the gross revenues of the provider during the preceding reporting period. The return shall also show the amount of taxes for the period covered by the return and other information as the ***department***[~~cabinet~~] deems necessary for the proper administration of KRS 142.301 to 142.359.

(4) The person required to file the return shall deliver the return, together with a remittance of the amount of the tax due, to the ***department***[~~cabinet~~].

(5) For the purpose of facilitating the administration, payment, or collection of the taxes levied by KRS 142.303, 142.307, 142.309, and 142.311, the ***department***[~~cabinet~~] may permit or require returns to be filed or tax payments to be made other than as specifically required by the provisions of this section, except the ***department***[~~cabinet~~] shall not require or permit returns or payments to be filed or remitted more frequently than monthly.

Section 524. KRS 142.331 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall, upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the ***department***[~~cabinet~~], extend the time for filing the return or paying the tax for a period not to exceed thirty (30) days.

(2) Any person for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

Section 525. KRS 142.333 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the taxpayer, the excess shall be assessed by the ***department***[~~cabinet~~] within four (4) years from the later of the date the return was filed or due, except that in the case of a failure to file a return or a fraudulent return, the excess may be assessed at any time. A notice of assessment shall be

mailed to the provider. The provider and the ***department***~~[cabinet]~~ may agree to extend this time period.

(2) Any provider aggrieved by an action of the ***department***~~[cabinet]~~ may request a review and shall have the rights of appeal as set forth in KRS Chapter 131.

(3) Notwithstanding the four (4) year time limitation set forth in subsection (1), in the case of a return where the provider understates gross revenues by twenty-five percent (25%) or more, the excess shall be assessed by the ***department***~~[cabinet]~~ within six (6) years from the later of the date the return is due or filed.

Section 526. KRS 142.337 is amended to read as follows:

In making a determination of tax liability, the ***department***~~[cabinet]~~ may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

Section 527. KRS 142.341 is amended to read as follows:

(1) Every provider shall keep records, receipts, invoices, and other pertinent papers in the form as the ***department***~~[cabinet]~~ may require.

(2) Every provider who files the returns required under KRS 142.323 shall keep records for not less than six (6) years from the making of records unless the ***department***~~[cabinet]~~ in writing authorizes their destruction at an earlier date.

Section 528. KRS 142.347 is amended to read as follows:

(1) Except when the health services secretary has been granted specific authority in KRS 142.301 to 142.359, the ***department***~~[cabinet]~~ shall administer the provisions of KRS 142.301 to 142.359, and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, conferred generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

(2) The Cabinet for Health Services shall be responsible for compliance with all federal reporting requirements regarding the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311.

(3) The Cabinet for Health Services shall fully cooperate with the ***department***~~[cabinet]~~ and shall provide the ***department***~~[cabinet]~~ with any information requested to carry out the provisions of KRS 142.301 to 142.359.

Section 529. KRS 142.351 is amended to read as follows:

(1) A report of revenue receipts from the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall be provided on a quarterly basis by the ***department***~~[cabinet]~~ to the health services secretary on or before the tenth day of the second month following the close of each fiscal quarter.

(2) It is the responsibility of each provider, subject to tax under KRS 142.303, 142.307, 142.309, and 142.311 to register with the ***department***~~[cabinet]~~, and comply with the tax and reporting provisions of KRS 142.301 to 142.359.

Section 530. KRS 142.353 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with the provisions of KRS 142.301 to 142.359, the ***department***~~[cabinet]~~ may require any person subject to the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 to place security with it. The amount of the security shall be fixed by the ***department***~~[cabinet]~~ but shall not be greater than three (3) times the estimated average liability of the provider or all providers in the same class as the provider, whichever is greater. This limitation shall apply regardless of the type of security placed with the ***department***~~[cabinet]~~.

(2) The amount of the security may be increased or decreased by the ***department***~~[cabinet]~~, subject to the limitations provided in subsection (1) of this section.

(3) (a) If necessary, the ***department***~~[cabinet]~~ may sell the security at public auction in order to recover any tax, penalty, or interest due. However, security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may be sold by the ***department***~~[cabinet]~~ at a private sale at a price not lower than the prevailing market price.

(b) 1. The ***department***~~[cabinet]~~ shall provide notice by certified mail, sent to the last known address as reflected in the records of the ***department***~~[cabinet]~~, or by delivery, to the person who placed the security with the ***department***~~[cabinet]~~ of the date, time, and place of the sale.

2. Delivery means mailing the notice to the person it is addressed to, leaving the notice at his place of business with the person in charge of the place of business, or, if there is no one in charge, leaving the notice at a conspicuous place at the place of business. If the place of business is closed, or the person to be served has no place of business, leaving it at his home, with a person of suitable age and discretion residing in the home. Notice by certified mail must be postmarked no later than ten (10) days prior to the sale. Notice by delivery must be given no later than ten (10) days prior to the sale.

(c) Any amount in excess of the amount due the ***department***~~[cabinet]~~ after the sale shall be returned to the person placing the security.

(4) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a provider's business until the security is obtained. The action may be brought in the Franklin

Circuit Court or in the Circuit Court having jurisdiction over the provider.

Section 531. KRS 143.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Department***[~~Cabinet~~]" means "***Department of*** Revenue[~~ Cabinet~~]."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth.

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into by which persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest shall be the taxpayer.

(6) "Gross value" is synonymous with gross income from property as defined in Section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (11) of this section, incurred in transporting coal shall not be considered as gross income from the property. Gross value shall be reported as follows:

(a) For coal severed and/or processed and sold during a reporting period, gross value shall be the amount received or receivable by the taxpayer.

(b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall be the amount received or receivable from the first noncontrolled sale by the related parties. If coal is sold to a related party for consumption, gross value shall not be less than the fair market value for coal of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.

(e) If severed coal is purchased for the purpose of processing and resale, the gross value shall be the amount received or receivable during the reporting period reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(f) If severed coal is purchased for the purpose of processing and consumption, the gross value shall be the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(g) In all instances, the gross value shall not be reduced by any taxes, including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense.

(7) "Reporting period" means the period for which each taxpayer shall compute his tax liability and remit the tax due to the ***department***[~~cabinet~~]. The reporting period shall be monthly. However, the ***department***[~~cabinet~~] may, under certain conditions, authorize a quarterly reporting period.

(8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading or unloading for any purpose. "Processing" shall not include:

(a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity; or

(b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized, or otherwise treated in Kentucky.

(9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control shall exist if a contract or lease, either written or oral, is entered into whereby one (1) party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive royalty interest. In the case of related parties, the ***department***[~~cabinet~~] may apportion or allocate the receipts between or among the persons, organizations, or businesses if it determines that the apportionment or allocation is necessary in order to more clearly reflect gross value.

(10) "Economic interest" for the purposes of this chapter shall be synonymous with the economic interest ownership required by Internal Revenue Code Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(11) "Transportation expense" shall mean:

(a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

(b) The expense incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

(c) Transportation expenses shall not include:

1. The cost of acquisition, improvements, and maintenance of real property;

2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities;

3. The cost of acquisition and operating expenses of equipment used to load or unload the coal at the mine, processing facility, and mining and nonmining loading facility.

(12) "Registered taxpayer" as used in subsection (6)(e) and (f) of this section shall mean a "taxpayer" as defined in subsection (5) of this section who holds a valid coal tax certificate of registration required under KRS 143.030(1) and the certificate of registration was valid for the period in which his coal was sold.

(13) "Above-drainage" means coal in a coal bed that outcrops at the surface within a mine permit area and that is accessed at the outcrop location.

(14) "Below-drainage" means coal in a coal bed that does not outcrop at the surface within a mine permit area and that is accessed by mine slopes or other openings that penetrate the coal a minimum of thirty (30) feet below the surface drainage level.

(15) "Mining ratio" means the amount of bank cubic yards of surface material that must be removed before a ton of coal can be mined.

Section 532. KRS 143.040 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall administer the provisions of this chapter and shall, subject to the provisions of KRS 143.090, have all the powers, rights, duties, and authority with respect to promulgation of rules and regulations, assessment, collection, refunding and administration of the taxes levied by this chapter conferred generally on it by the Kentucky Revised Statutes including Chapters 131, 134, and 135 of such statutes.

Section 533. KRS 143.090 is amended to read as follows:

(1) The Transportation Cabinet shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.

(2) The Kentucky Coal Council shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the Kentucky Coal Council. The amount so certified shall in no case exceed three million dollars ($3,000,000) in any one (1) year.

(3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Kentucky Coal Council, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:

(a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and

(b) An amount equal to the amount certified by the Kentucky Coal Council shall be transferred by appropriate interfund transfer procedures to the Kentucky Coal Council.

(4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Kentucky Coal Council shall be deposited by the ***Department of*** Revenue[~~ Cabinet~~] to the credit of the general fund.

(5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the ***commissioner***[~~secretary~~] of revenue shall prorate the proceeds to the transportation fund and the Kentucky Coal Council based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 534. KRS 143.025 is amended to read as follows:

(1) Taxpayers severing coal in Kentucky and partially or wholly processing the coal outside of Kentucky thereafter and taxpayers severing coal outside of Kentucky and partially or wholly processing the coal in Kentucky thereafter shall determine and report the gross value of the coal by application of the following formula:

(a) Determine the direct cost of severing or processing the coal in Kentucky as defined in subsections (d) and (e) of this section.

(b) Determine the direct cost of severing or processing the coal outside of Kentucky as defined in subsections (d) and (e) of this section.

(c) Exclude from subsections (a) and (b) of this section transportation expense as defined in KRS 143.010(11) and overhead cost as defined in subsection (f) of this section.

(d) Include in the direct cost of severing coal: black lung excise tax; contract mining, less transportation expense contained therein; cost depletion; depreciation; development; equipment rental; explosives; fuel; labor and associated expenses; maintenance; reclamation; royalties when based on tons severed; and wheelage.

(e) Include in the direct cost of processing coal: depreciation; equipment rental; fee processing; fuel; labor and associated expense; maintenance; and refuse disposal.

(f) Include in the overhead costs: commissions; freight yard and siding expense; general expense; general insurance and supervision; general office expense; idle time expense; inventory adjustments; mine closing expense; officers' salaries; percentage depletion; quality analysis; scale and weighman's expense; transportation expense and taxes, including sales, coal severance, property, franchises, and state income taxes.

(2) For purposes of computing the formula under this section, any expense which is not directly attributable to either the severing or processing of the coal shall be classified as an overhead cost.

(3) Direct cost determined in subsection (a) of this section divided by the total of direct cost determined in subsection (a) of this section and the direct cost determined in subsection (b) of this section and the result multiplied by the gross value of the coal shall equal the proportion of gross value which is subject to the tax levied under KRS 143.020.

(4) Any taxpayer determining taxable gross value as provided in this section shall submit supporting computations and classifications of cost with each coal tax return, unless the ***department***~~[cabinet]~~ authorizes the taxpayer to submit the supporting information on a basis other than monthly.

Section 535. KRS 143.030 is amended to read as follows:

(1) Every individual, partnership, joint venture, association, limited liability company, limited liability partnership, corporation, or other business entity engaged in severing or processing coal shall, prior to July 1, 1978, or prior to severing or processing coal in this Commonwealth, file an application for a certificate of registration in such form as the ***department***~~[cabinet]~~ may prescribe. Every application shall be signed by:

(a) The owner if a natural person;

(b) A member or partner if the entity is an association, limited liability company, limited liability partnership, or partnership;

(c) An executive officer, if the entity is a corporation, or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his or her authority; or

(d) A licensed certified public accountant, or an attorney licensed to practice law in the Commonwealth of Kentucky, acting on behalf of the owner, association, partnership, limited liability company, limited liability partnership, corporation, or other business entity.

(2) On or before the twentieth day of the month following the reporting period in which any coal is severed or processed, the taxpayer severing or processing such coal shall file with the ***department***~~[cabinet]~~ a tax return in such form as the ***department***~~[cabinet]~~ may require and remit the amount of the tax due. A tax return is required for each reporting period even though there may be no tax liability.

(3) Whenever any taxpayer fails to comply with any provisions of this chapter, or any rule or regulation of the ***department***~~[cabinet]~~ relating thereto, the ***department***~~[cabinet]~~ may order the suspension or revocation of the certificate of registration held by such taxpayer.

(4) Any taxpayer, including any officer of a corporation, who conducts a coal severing or processing operation in this state without obtaining a certificate of registration or after a certificate of registration has been suspended or revoked, shall be guilty of a misdemeanor and upon conviction therefor, shall be fined an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months or both such fine and imprisonment.

Section 536. KRS 143.035 is amended to read as follows:

Notwithstanding any other provisions of this chapter to the contrary, where the ***department***~~[cabinet]~~ finds that it would facilitate and expedite the collection of the tax imposed by this chapter, the ***department***~~[cabinet]~~ may authorize the taxpayer processing the coal to report and pay the tax which would be due from the taxpayer severing the coal. Authorization from the ***department***~~[cabinet]~~ shall be in the form of an agreement executed by the taxpayer processing the coal, the taxpayer severing the coal and the ***department***~~[cabinet]~~. The agreement shall be in such form as the ***department***~~[cabinet]~~ may prescribe. The agreement must be signed by the owners if the taxpayers are natural persons; in the case of a partnership or association by a partner or member; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application. The director of the sales and severance tax division shall sign for the ***department***~~[cabinet]~~. The agreement may be terminated by any party to the agreement upon giving thirty (30) days written notice to the other parties to the agreement; however, the ***department***~~[cabinet]~~ may terminate the agreement immediately upon written notice to the other parties when either the taxpayer processing the coal or the taxpayer severing the coal fails to comply with the terms of the agreement.

Section 537. KRS 143.037 is amended to read as follows:

(1) For the purpose of administering KRS 143.010(6)(e) and (f), the ***department***[~~cabinet~~] shall provide to all registered taxpayers, who sell severed or processed coal that will subsequently be claimed as a deduction for purchased coal, certificates or other similar forms designed for the purpose of permitting the processor of the coal to verify his deduction for purchased coal. If coal which has been severed outside this state is purchased by a processor, he shall acquire a statement in such form as the ***department***[~~cabinet~~] may prescribe from the person severing the coal outside this state.

(2) A deduction for purchased coal shall not be allowed for purchases of coal originating from persons severing coal in this state who are not registered to report and pay the tax due under this chapter or for purchases of coal which cannot be traced to a person who severed the coal outside this state.

Section 538. KRS 143.050 is amended to read as follows:

(1) Any taxpayer charged with the filing of reports and payment of the tax imposed by this chapter may be required to post a cash or corporate surety bond in an amount to be determined by the ***department***[~~cabinet~~].

(2) The Commonwealth may bring an action for a restraining order, temporary or permanent injunction to restrain or enjoin the operation of a taxpayer's business until the bond is posted. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

Section 539. KRS 143.060 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the taxpayer, the excess shall be assessed within four (4) years from the date the return was filed, except as provided in subsection (2) of this section, and except that in the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the ***department***[~~cabinet~~].

(2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) Any final ruling, order or determination of the ***department***[~~cabinet~~] with regard to the administration of this chapter may be reviewed only in the manner provided in KRS 131.110 and 131.310 to 131.370.

(4) Notwithstanding the four (4) year time limitation of subsection (1), in the case of a return where the taxpayer understates the gross value by twenty-five percent (25%) or more, the excess shall be assessed by the ***department***[~~cabinet~~] within six (6) years from the date the return was filed.

Section 540. KRS 143.090 is amended to read as follows:

(1) The Transportation Cabinet shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.

(2) The Kentucky Coal Council shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the Kentucky Coal Council. The amount so certified shall in no case exceed three million dollars ($3,000,000) in any one (1) year.

(3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Kentucky Coal Council, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:

  (a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and

  (b) An amount equal to the amount certified by the Kentucky Coal Council shall be transferred by appropriate interfund transfer procedures to the Kentucky Coal Council.

(4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Kentucky Coal Council shall be deposited by the ***Department of*** Revenue[~~ Cabinet~~] to the credit of the general fund.

(5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the ***commissioner***[~~secretary~~] of revenue shall prorate the proceeds to the transportation fund and the Kentucky Coal Council based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 541. KRS 143A.010 is amended to read as follows:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(2) "Natural resource" means all forms of minerals including but not limited to rock, stone, limestone, shale, gravel, sand, clay, natural gas, and natural gas liquids which are contained in or on the soils or waters of this state. For purposes of this chapter, "natural resource" does not include coal and oil which are taxed under KRS 143.020 and 137.120.

(3) "Severing" or "severed" means the physical removal of the natural resource from the earth or waters of this state by any

means; however, "severing" or "severed" shall not include the removal of natural gas from underground storage facilities into which the natural gas has been mechanically injected following its initial removal from the earth.

(4) "Taxpayer" means and includes any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind engaged in the business of severing and/or processing natural resources in this state for sale or use. In instances where contracts, either oral or written, are entered into whereby persons, organizations or businesses are engaged in the business of severing and/or processing a natural resource but do not obtain title to or do not have an economic interest therein, the party who owns the natural resource or has an economic interest is the taxpayer.

(5) "Gross value" is synonymous with gross income from property as defined in section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (9) of this section incurred in transporting a natural resource shall not be considered as gross income from the property. Gross value is to be reported as follows:

(a) For natural resources severed and/or processed and sold during a reporting period, gross value is the amount received or receivable by the taxpayer.

(b) For natural resources severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the natural resource is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of the natural resource shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall not be less than the fair market value for natural resources of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for natural resources of similar grade and quality.

(e) If severed natural resources are purchased for the purpose of processing and resale, the gross value is the amount received or receivable during the reporting period reduced by the amount paid or payable to the taxpayer actually severing the natural resource.

(f) If severed natural resources are purchased for the purpose of processing and consumption, the gross value is the fair market value of processed natural resources of similar grade and quality reduced by the amount paid or payable to the taxpayer actually severing the natural resource.

(g) In all instances, the gross value shall not be reduced by any taxes including the tax levied in KRS 143A.020, royalties, sales commissions, or any other expense.

(6) "Processing" includes but is not limited to breaking, crushing, cleaning, drying, sizing, or loading or unloading for any purpose. "Processing" shall not include the act of unloading or loading for shipment natural resources that have not been severed, cleaned, broken, crushed, dried, sized or otherwise treated in Kentucky.

(7) "Related parties" means two (2) or more persons, organizations or businesses owned or controlled directly or indirectly by the same interests.

(8) "Economic interest" for the purpose of this chapter is synonymous with the economic interest ownership required by Internal Revenue Code, Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(9) (a) "Transportation expense" means:

1. The amount paid by a taxpayer to a third party for transporting natural resources; and

2. The expenses incurred by a taxpayer using his own facilities in transporting natural resources from the point of extraction to a processing plant, tipple, or loading dock.

(b) Transportation expenses shall not include:

1. The cost of acquisition, improvements, and maintenance of real property;

2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities; or

3. The cost of acquisition and operating expenses of equipment used to load or unload the natural resource at the point of extraction, processing facility, or mining and nonmining loading facility.

Section 542. KRS 143A.040 is amended to read as follows:

The ***Department of*** Revenue~~[Cabinet]~~ shall administer the provisions of this chapter and shall have all the powers, rights, duties and authority with respect to rules and regulations, collection, refunding and administration of the taxes levied by KRS 143A.020 conferred generally on it by the Kentucky Revised Statutes, including KRS Chapters 131, 134 and 135.

Section 543. KRS 143A.050 is amended to read as follows:

(1) Every taxpayer as defined in KRS 143A.010(4) shall, before June 1, 1980, or before engaging in the severing or processing

of a natural resource subjected to tax under KRS 143A.020, obtain a certificate of registration by filing with the ***department***[~~cabinet~~] an application in such form and containing such information as the ***department***[~~cabinet~~] may prescribe. Every application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) Whenever any taxpayer fails to comply with any provisions of this section through KRS 143A.130 or any rule or regulation of the ***department***[~~cabinet~~] relating thereto, the ***department***[~~cabinet~~] may suspend or revoke the certificate of registration held by such taxpayer.

(3) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin operation of a taxpayer's business being operated without a certificate of registration. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

Section 544. KRS 143A.060 is amended to read as follows:

Notwithstanding any other provisions of this chapter to the contrary:

(1) In the case of natural resources other than natural gas, where the ***department***[~~cabinet~~] finds that it would facilitate and expedite the collection of the tax imposed under KRS 143A.020, the ***department***[~~cabinet~~] may authorize the taxpayer processing the natural resource to report and pay the tax which would be due from the taxpayer severing the natural resource. Authorization from the ***department***[~~cabinet~~] shall be in the form of an agreement executed by the taxpayer processing the natural resource, the taxpayer severing the natural resource, and the ***department***[~~cabinet~~]. The agreement shall be in such form as the ***department***[~~cabinet~~] may prescribe. The agreement must be signed by the owners if the taxpayers are natural persons; in the case of a partnership or association by a partner or member; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application. The director of legal services shall sign for the ***department***[~~cabinet~~]. The agreement may be terminated by any party to the agreement upon giving thirty (30) days' written notice to the other parties to the agreement; however, the ***department***[~~cabinet~~] may terminate the agreement immediately upon written notice to the other parties when either the taxpayer processing the natural resource or the taxpayer severing the natural resource fails to comply with the terms of the agreement; and

(2) (a) In the case of natural gas, except for those cases:

1. Where the person severing or severing and processing the natural gas will sell the gas to the ultimate consumer; or

2. Where the ***department***[~~cabinet~~] determines that the collection of the taxes due under KRS 143A.020 would be accomplished in a more efficient and effective manner through the severor, or severor and processor, remitting the taxes,

the first person to purchase the natural gas after it has been severed, or in the event that the natural gas has been severed and processed before the first sale, the first person to purchase the natural gas after it has been severed and processed, shall be liable for the collection of the tax imposed under KRS 143A.020. He shall collect the taxes imposed from the person severing, or severing and processing, the natural gas, and he shall remit the taxes to the ***department***[~~cabinet~~]. In those cases where the person severing or severing and processing the natural gas sells the gas to the ultimate consumer, the person so severing or severing and processing the natural gas shall be liable for the tax imposed under KRS 143A.020. In those cases where the ***department***[~~cabinet~~] determines that the collection of the taxes due under KRS 143A.020 from the severance or severance and processing of natural gas would be accomplished in a more efficient and effective manner through the severor, or severor and processor, remitting the taxes, the ***department***[~~cabinet~~] shall set out its determination in writing, stating its reasons for so finding, and so advise the severor or severor and processor at least fifteen (15) days in advance of the first reporting period for which such action would be effective.

(b) On or before the last day of the month following each calendar month, each person first purchasing natural gas as described in paragraph (a) of this subsection, shall report purchases of natural gas during the month, showing the quantities of gas purchased, the price paid, the date of purchase, and any other information deemed necessary by the ***department***[~~cabinet~~] for the administration of the tax levied by KRS 143A.020, and shall pay the amount of tax due, on forms prescribed by the ***department***[~~cabinet~~].

(c) On or before the last day of the month following each calendar month, each person severing, or severing and processing natural gas, shall report the sales of natural gas, showing the name and address of the person to whom sold, the quantity of gas sold, the date of sale, and the sales price on forms prescribed by the ***department***[~~cabinet~~].

Section 545. KRS 143A.070 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with KRS 143A.050 to 143A.130, the ***department***[~~cabinet~~] may require any taxpayer to post a cash or corporate surety bond.

(2) The amount of the bond shall be fixed by the ***department***[~~cabinet~~] but, except as provided in subsection (3) of this section, shall not be greater than three (3) times the average quarterly liability of taxpayers filing returns for quarterly periods, five (5) times the average monthly liability of taxpayers required to file returns for monthly periods, or two (2) times the

average periodic liability of taxpayers permitted or required to file returns for other than monthly or quarterly periods.

(3) Notwithstanding the provisions of subsection (2) of this section, no bond required under this section shall be less than five hundred dollars ($500).

(4) The amount of the bond provided herein may be increased or decreased by the ***department***~~[cabinet]~~ at any time subject to the limitations herein provided.

(5) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a taxpayer's business until the bond is posted and any delinquent tax, including applicable interest and penalties, has been paid. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

Section 546. KRS 143A.080 is amended to read as follows:

(1) On or before the last day of the month following each calendar month, every taxpayer shall report the gross value of natural resources sold, processed, or used during the preceding month and pay the amount of tax due on forms prescribed by the ***department***~~[cabinet]~~.

(2) Returns shall be signed by the taxpayer required to file the return or by his duly authorized agent but need not be verified by oath.

(3) Returns required under this section shall contain such information as the ***department***~~[cabinet]~~ deems necessary for the proper administration of this chapter.

(4) The taxpayer required to file the return provided under this section shall deliver the return together with a remittance of the amount of the tax due to the ***department***~~[cabinet]~~.

(5) For purposes of facilitating the administration, payment, or collection of the taxes levied by KRS 143A.020, the ***department***~~[cabinet]~~ may permit or require returns or tax payments for periods other than monthly. When permitted, returns for other than monthly periods shall be filed and paid in such manner as the ***department***~~[cabinet]~~ may prescribe.

(6) No taxpayer shall change from the reporting system required under this section or permitted in writing by the ***department***~~[cabinet]~~, without the written authorization of the ***department***~~[cabinet]~~.

(7) A tax return is required for each reporting period even though there may be no tax due.

Section 547. KRS 143A.100 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***~~[cabinet]~~ shall examine and audit it. If the amount of tax computed by the ***department***~~[cabinet]~~ is greater than the amount returned by the taxpayer, the excess shall be assessed by the ***department***~~[cabinet]~~ within four (4) years from the date the return was filed, except as provided in subsection (4) of this section and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the ***department***~~[cabinet]~~.

(2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in subsection (1) of this section as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in KRS 143A.080.

(4) Notwithstanding the four (4) year time limitation of subsection (1) of this section, in the case of a return where the tax computed by the ***department***~~[cabinet]~~ is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the ***department***~~[cabinet]~~ within six (6) years from the date the return was filed.

Section 548. KRS 143A.120 is amended to read as follows:

In making a determination of tax liability the ***department***~~[cabinet]~~ may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

Section 549. KRS 143A.130 is amended to read as follows:

(1) Every taxpayer liable for the reporting or payment of the taxes levied by KRS 143A.020 shall keep such records, receipts, invoices, and other pertinent papers in such form as the ***department***~~[cabinet]~~ may require.

(2) Every such taxpayer shall keep such records for not less than four (4) years from the making of such records unless the ***department***~~[cabinet]~~ in writing sooner authorizes their destruction.

Section 550. KRS 143A.140 is amended to read as follows:

(1) The taxes paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the ***department***~~[cabinet]~~ and shall contain such information as the ***department***~~[cabinet]~~ may require.

Section 551. KRS 144.110 is amended to read as follows:

As used in KRS 144.110 to 144.130, unless the context requires otherwise:

(1) "Air transportation facilities and related equipment" means any facilities, improvements, or equipment located at an airport and used, directly or indirectly, by the certificated air carrier or its customers in the carrier's business of transporting persons or property for hire. It includes exclusive space leased or owned by the certificated air carrier, common access areas, concession areas, aircraft ramps, taxiways, roadways, and vehicles which are part of an intra-airport train, subway, or automated fixed guideway transit system, but excludes any other ground vehicles and aircraft.

(2) "Investment" means all costs which, consistent with the fundamental project scope, the certificated air carrier, airport operator, or any bond trustee pays, commits to pay, or incurs in any manner for the purchase or acquisition of additional air transportation facilities for which construction was started after the base period, and related equipment which was not located at an airport in this Commonwealth prior to the base period. Included are costs directly related to the design, construction, purchase, acquisition, lease, use, or financing of part or all of the additional air transportation facilities and related equipment whether owned, leased, or used by the carrier or its customers. Financing costs shall be limited to the principal amount of bonds or other obligations, capitalized interest, and any related issuance costs and expenses. The total investment shall not be offset or otherwise reduced if the certificated air carrier or airport operator is or subsequently becomes eligible for any reimbursement from either federal funds or other funds which may be available, including funds generated directly or indirectly from passenger facility charges. Likewise, any subsequent adjustment to the total investment provided in a carrier's contractual obligation shall not adversely affect the amount of the investment if the fundamental project scope is not reduced.

(3) "Annual period" means the certificated air carrier's taxable year as provided in KRS 141.140.

(4) "Base period" means the certificated air carrier's annual period ending in 1990.

(5) "Contractually obligated" or "contractual obligation" means having entered into a written agreement or commitment to make an investment in air transportation facilities and related equipment in this state.

(6) "Gross Kentucky real wage base" means the wages subject to Kentucky income tax and Kentucky income tax withholding pursuant to KRS Chapter 141, paid by a certificated air carrier during the base period adjusted to reflect changes in the United States Department of Labor's "Employment Cost Index - Wages and Salaries" for the transportation industry or, at the option of the carrier and upon verification by the ***Department of*** Revenue[~~Cabinet~~], the carrier's actual general wage increases, through the end of the annual period for which tax credit is claimed pursuant to KRS 144.125.

(7) "Nonqualifying employees" means employees of the certificated air carrier whose employment with the carrier began after the base period; and

(a) The employees perform essentially the same functions which, by contract or otherwise, were performed in this Commonwealth for the carrier by another company at any time after the base period; or

(b) Their employment continued in this Commonwealth as the result of the carrier's purchase, merger, or other acquisition of or combination with another company.

(8) "Fundamental project scope" means the total project consisting of the additional air transportation facilities and related equipment as reflected in the carrier's application filed pursuant to KRS 144.130. It shall be measured by the carrier's increased capacity. Measures of increased capacity may include such factors as square footage, cost, employment, passenger or freight loadings or handling capabilities, number of aircraft departures, and other factors related to the increased investment.

Section 552. KRS 144.120 is amended to read as follows:

(1) Subject to the provisions of subsections (4), (5), and (6) of this section and KRS 144.130, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a Kentucky sales and use tax credit, as computed in subsection (3) of this section, on aircraft fuel, including jet fuel, purchased after June 30, 1991, for any annual period in which the carrier meets or exceeds the investment or fuel purchase qualification requirements prescribed in subsection (2) of this section.

(2) To qualify for the sales and use tax credit provided in subsection (1) of this section, the certificated air carrier shall:

(a) Prior to or during the annual period for which the credit is claimed, have made, caused to be made, or obtained contractual obligations to make, consistent with the fundamental project scope, an investment in the aggregate of at least three hundred million dollars ($300,000,000) in new and expanded air transportation facilities and related equipment in this Commonwealth; or

(b) During the annual period for which the credit is claimed, purchase and place into the fuel supply tank of its aircraft in this state not less than one hundred million (100,000,000) gallons of aircraft fuel, including jet fuel, for the carrier's direct operation of the aircraft in interstate or foreign commerce exclusively for the conveyance of property or passengers for hire. Nominal use of the aircraft fuel in intrastate commerce shall not affect this provision.

(3) The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less four million dollars ($4,000,000). The four million dollar ($4,000,000) amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on

the Kentucky sales and use tax applicable to such aircraft fuel purchased during the twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

(4) To facilitate administration of the tax credit provided pursuant to this section, each qualifying certificated air carrier purchasing aircraft fuel, including jet fuel, on which the Kentucky sales and use tax for the annual period is reasonably expected to exceed the amount provided in subsection (3) of this section shall report and pay directly to the ***Department of*** Revenue[~~ Cabinet~~] the tax applicable to aircraft fuel, including jet fuel, purchased for its storage, use, or other consumption during the annual period, less the credit provided herein.

(5) Notwithstanding the provisions of subsection (1) of this section, no certificated air carrier shall be entitled to any tax credit pursuant to this section unless the carrier meets the requirements of subsection (2) of this section by the annual period ending in 1997.

(6) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the ***Department of*** Revenue[~~ Cabinet~~] on or before the fifteenth day of the fourth month following the end of each annual period for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

Section 553. KRS 144.125 is amended to read as follows:

(1) Subject to the provisions of subsections (4) through (9) of this section and KRS 144.130, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a general tax credit, as computed in subsection (3) of this section, for any annual period in which the certificated air carrier meets or exceeds the investment and gross wage qualification requirements prescribed in subsection (2) of this section and has elected to begin claiming the credit.

(2) To qualify for the general tax credit provided in subsection (1) of this section, the certificated air carrier shall:

(a) Prior to or during the annual period for which the credit is claimed, have made, caused to be made, or obtained contractual obligations to make, consistent with the fundamental project scope, an investment in the aggregate of at least three hundred million dollars ($300,000,000) in new and expanded air transportation facilities and related equipment in this Commonwealth; and

(b) During the annual period for which the credit is claimed, have gross wages subject to Kentucky income tax and Kentucky income tax withholding pursuant to KRS Chapter 141 which are at least fifteen million dollars ($15,000,000) greater than its gross Kentucky real wage base. In calculating the gross wages paid for the annual period for which the credit is claimed, there shall not be included the wages of any nonqualifying employees of the certificated air carrier.

(3) The general tax credit shall be an amount equal to ten percent (10%) of the increase in gross wages subject to Kentucky income tax and Kentucky income tax withholding paid by the certificated air carrier during the annual period as compared to the carrier's gross Kentucky real wage base. In calculating the gross wages paid for the annual period for which the credit is claimed, there shall not be included the wages of any nonqualifying employees of the certificated air carrier.

(4) The general tax credit may accrue for only five (5) consecutive annual periods of the qualifying certificated air carrier. The five (5) year limitation period shall begin at the election of the qualifying certificated air carrier, but not later than the carrier's annual period beginning in 1997. The tax credit shall accrue to the carrier only for the annual periods during which the carrier meets or exceeds the requirements as provided in subsection (2) of this section.

(5) The general tax credit authorized to a qualifying certificated air carrier shall not exceed three million dollars ($3,000,000) for any annual period.

(6) The general tax credit authorized to a qualifying certificated air carrier shall not exceed a total of fifteen million dollars ($15,000,000).

(7) The general tax credit authorized shall be claimed by the qualifying certificated air carrier first against its Kentucky corporation income tax liability, then against its Kentucky corporation license tax liability, with any remaining balance to be claimed against its Kentucky sales and use tax liability. The credit shall not be applied to any other liability due the Commonwealth. The ***Department of*** Revenue[~~ Cabinet~~] may prescribe the method or manner for the qualifying certificated air carrier to claim the tax credit on applicable tax returns filed with the ***department***[~~cabinet~~].

(8) If the tax liabilities against which the tax credit is to be claimed pursuant to subsection (7) of this section are not sufficient to fully absorb the allowable tax credit, or if a net operating loss carryback or other subsequent adjustment reduces the carrier's liability against which a credit authorized by this section has previously been claimed, the unused or excess balance of the allowable credit may be applied against the carrier's liabilities for the specified taxes for previous or subsequent annual periods within the five (5) year limitation period. However, no refund in excess of the net tax actually paid by the carrier shall be made by the Commonwealth because of the carrier's application of the unused or excess credit. Interest shall not apply to any tax refunded for a prior period resulting from the credit carryback provisions of this subsection.

(9) Each certificated air carrier claiming the general tax credit authorized pursuant to this section shall file an annual general tax credit reconciliation report with the ***Department of*** Revenue[~~ Cabinet~~] on or before the fifteenth day of the fourth month following the end of each annual period for which the credit is claimed. The report shall be filed as provided in

KRS 144.135 to 144.139 for each type tax against which the credit is applied.

Section 554. KRS 144.130 is amended to read as follows:

(1) No certificated air carrier shall claim any tax credit pursuant to KRS 144.110 to 144.130 until its entitlement thereto is first determined by the ***Department of*** Revenue[~~ Cabinet~~]. Upon application to the ***department***[~~cabinet~~], a certificated air carrier desiring to claim a tax credit pursuant to KRS 144.110 to 144.130 shall present documentation as may reasonably be required by the ***department***[~~cabinet~~] to define the fundamental project scope and verify the required investment, the increased capacity which is to result from the investment, and the anticipated project completion date. Documentation may include the carrier's contractual obligations, its corporation board resolutions or stockholder reports, airport board resolutions or actions, related financial transactions, and any other documentation which defines or describes the fundamental project scope and the carrier's planned investment and increased capacity. The ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] shall, upon the ***department's***[~~cabinet's~~] review of the documentation submitted by the carrier, make a tax credit entitlement determination and immediately give notice thereof to the carrier. In making an entitlement determination, the ***Department of*** Revenue[~~ Cabinet~~] shall seek whatever third-party counsel and advice deemed appropriate to satisfy itself that the fundamental project scope is sufficient to support at least a three hundred million dollar ($300,000,000) investment in additional air transportation facilities and related equipment. An entitlement granted by the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] for a certificated air carrier to claim any tax credit pursuant to KRS 144.110 to 144.139 shall be subject to the provisions of subsection (2) of this section.

(2) Any certificated air carrier which is granted entitlement to claim any tax credit pursuant to KRS 144.110 to 144.130 shall, by the anticipated project completion date specified in the carrier's application filed pursuant to subsection (1) of this section, but not later than the carrier's annual period ending in 1997, demonstrate to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that an investment of at least three hundred million dollars ($300,000,000) has been made or that the carrier has completed at least ninety percent (90%) of the fundamental project scope. An investment of three hundred million dollars ($300,000,000) or the completion of at least ninety percent (90%) of the fundamental project scope shall constitute fulfillment of the investment requirement. Without precluding the carrier's demonstration by other means, completion of ninety percent (90%) of the projected increased passenger or freight handling or loading capacity, as measured by the number of gates or loading facilities, or completion of at least ninety percent (90%) of the total square footage of the buildings, including the fixtures and equipment therefor, which were to be constructed and equipped as a part of the fundamental project scope shall demonstrate completion of at least ninety percent (90%) of the fundamental project scope. If the carrier has not made an investment of at least three hundred million dollars ($300,000,000) and has not completed at least ninety percent (90%) of the fundamental project scope by the anticipated project completion date, but not later than the carrier's annual period ending in 1997, all or a portion of the tax credit otherwise authorized pursuant to KRS 144.110 to 144.130 shall be forfeited as follows:

Fundamental Project Scope Completion Percentage	Portion of Credit Forfeited
At least 80%, but less than 90%	25%
At least 70%, but less than 80%	50%
Less than 70%	100%

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall be responsible for determining the extent of the certificated air carrier's completion of the fundamental project scope. In making the determination, the cabinet shall consult with the certificated air carrier, the affected airport board and, if deemed necessary, with other persons.

(4) Subject to the provisions of KRS 131.110, notwithstanding the provisions of KRS 136.076, 139.620, 141.210, 413.120, or any other provision of the Kentucky Revised Statutes limiting the time for assessing taxes, the ***Department of*** Revenue[~~ Cabinet~~] shall assess against the carrier the amount of any tax credit previously claimed which is forfeited pursuant to subsection (2) of this section. Interest at the tax interest rate as defined in KRS 131.010(6) shall apply to the forfeited tax credit amount from the date the credit was claimed until reimbursement is made to the Commonwealth. The carrier shall be allowed to claim in any applicable subsequent annual periods only that portion of the credit otherwise authorized pursuant to KRS 144.110 to 144.130 which has not been forfeited as provided in this section.

(5) The dates set forth in subsection (2) of this section may be extended by the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~], upon request by the carrier, by an amount of time equal to any delay caused by circumstances reasonably beyond the carrier's control which prevent the carrier from completing the project by the anticipated project completion date, including construction delays and delays resulting from the carrier's compliance with applicable federal, state, or local laws, rules and regulations, or an order or judgment of a court or administrative agency. They may also be extended by the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] upon the carrier's showing of any other good cause. The Governor and the Legislative Research Commission shall be immediately notified of any extension granted pursuant to this subsection and the reason for granting the same.

(6) Upon the making of an initial tax credit entitlement determination pursuant to subsection (1) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall immediately give written notification to the Governor and the Legislative Research Commission and shall include a description of the fundamental project scope and a summary of the estimated

costs. Upon making a final determination as provided in subsections (2) and (3) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall immediately give written notification to the Governor and the Legislative Research Commission of the extent to which the fundamental project scope was completed. Such notification shall include a summary of the total costs expended for the completed project and a description of any changes to or deviations from the fundamental project scope.

Section 555. KRS 144.132 is amended to read as follows:

(1) Subject to the provisions of subsection (2) of this section, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a credit against the Kentucky sales and use tax paid on aircraft fuel, including jet fuel, purchased after June 30, 2000, as determined under subsection (2) of this section.

(2) For fiscal years beginning after June 30, 2000, certificated air carriers shall pay the first one million dollars ($1,000,000) in Kentucky sales and use tax due that is applicable to the purchase of aircraft fuel, including jet fuel. The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to the purchase of aircraft fuel, including jet fuel, purchased by the certificated air carrier during each fiscal year beginning after June 30, 2000, in excess of one million dollars ($1,000,000).

(3) Each certificated air carrier purchasing aircraft fuel, including jet fuel, on which Kentucky sales and use tax for the fiscal year is reasonably expected to exceed one million dollars ($1,000,000) shall report and pay directly to the ***Department of*** Revenue[~~ Cabinet~~] the tax applicable to the purchase of aircraft fuel, including jet fuel, purchased for storage use or other consumption during the fiscal year.

(4) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the ***Department of*** Revenue[~~ Cabinet~~] on or before October 15 of the fiscal year following the fiscal year for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

Section 556. KRS 144.135 is amended to read as follows:

The general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.125 shall be submitted to the ***Department of*** Revenue[~~ Cabinet~~] in a form and contain information and documentation as the ***department***[~~cabinet~~] may reasonably require to verify the carrier's computation of the tax credit and the use of the credit against the tax levied by KRS 136.070.

Section 557. KRS 144.137 is amended to read as follows:

The sales and use tax aviation fuel tax credit reconciliation report and the general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.120, 144.125, and 144.132 shall be submitted to the ***Department of*** Revenue[~~ Cabinet~~] in a form and contain information and documentation as the ***department***[~~cabinet~~] may reasonably require to verify the carrier's computation of the applicable tax credit and the use of the credit against the taxes levied by KRS Chapter 139.

Section 558. KRS 144.139 is amended to read as follows:

The general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.125 shall be submitted to the ***Department of*** Revenue[~~ Cabinet~~] in a form and contain information and documentation as the ***department***[~~cabinet~~] may reasonably require to verify the carrier's computation of the tax credit and the use of the credit against the tax levied by KRS 141.040.

Section 559. KRS 147A.025 is amended to read as follows:

(1) Except as provided in subsection (7) of this section, the Department for Local Government with the advice and approval of the state local finance officer annually shall conduct a program to instruct county clerks, sheriffs, jailers, and county treasurers respecting their duties and responsibilities in the collection and expenditure of public moneys, subject to their control and jurisdiction.

(2) The department with the advice and approval of the state local finance officer shall establish the content and publish instructional materials essential to implementing this program. Subsequent to every regular and extraordinary session of the General Assembly, the department with the state local finance officer shall review and revise, if necessary, the program when it is found not to be consistent with state law.

(3) The department may assess a charge to any person requesting copies of instructional materials published as provided by this section to cover actual costs of printing and handling these materials, except that no county official shall be charged for instructional materials provided for his use. Funds accruing from the sale of instructional materials shall be paid into the State Treasury, and the State Treasurer shall pay these funds into an account of the department to defray the costs of printing and handling these materials.

(4) The commissioner of the department with the advice and approval of the state local finance officer may prescribe completion standards for this program, and may, subject to subsection (6) of this section, establish the number, type and sequence of instructional sessions to be conducted by the department; but the commissioner of the department shall not require the attendance of any county official, nor shall he prescribe any requirement or standard that restricts or impairs a county official or elected candidate in the lawful pursuit or conduct of the office to which he is elected.

(5) The department shall notify in advance each county clerk, sheriff, jailer, and county treasurer respecting instructional session pertinent to his office. Notification shall be by mail, and it shall be posted no later than twenty-one (21) days prior

to the instructional session. At a minimum, the notice shall give the date, time, place and title of the instruction session.

(6) The department shall conduct this program by providing a one (1) day session at various locations throughout this state in order to minimize the travel expenses of those officials attending, provided that the aggregate number of all sessions shall not exceed five (5) during any calendar year. Except as provided in subsection (7) of this section, the department may commence instruction anytime during a calendar year.

(7) The department shall not conduct a program as provided by this section during any calendar year when a general election is held for every constitutional county office. The department, however, shall commence instruction for the succeeding year within eighty (80) days following said general election.

(8) Every county official who attends an instructional session shall be paid his actual and necessary expenses in attending from the operating funds of his office.

(9) In fulfilling the requirements of this section, the department shall confer with and coordinate its duties and responsibilities with the Finance and Administration Cabinet, the ***Department of*** Revenue[~~ Cabinet~~] and the Auditor of Public Accounts. The department shall also confer with those state universities whose mission statements mandate their participation in the training of public officials, the state associations for those officials listed in subsection (1) of this section, and the Kentucky Association of Counties, respecting the implementation of this section.

Section 560. KRS 147B.100 is amended to read as follows:

(1) There is recognized as established the Governor's Financial Policy Council. The purpose of the council shall be to advise the Governor on economic and financial matters relating to revenue, budgetary, and financial management policies.

(2) The council shall consist of the secretary of Finance and Administration Cabinet, [~~the secretary of the Revenue Cabinet,~~] the state budget director, and four (4) at-large members, appointed by the Governor, who shall be persons that are knowledgeable by reason of their experience and academic training, in the fields of business, financial management or public policy. The Governor shall designate one (1) of the four (4) at-large members to serve as chairman of the council.

(3) The terms of the at-large members shall coincide with the elected term of the Governor who appointed them. Vacancies in the at-large membership of the council shall be filled by appointment by the Governor for the unexpired portion of the vacated member's term.

(4) The council shall meet at least annually and shall hold other meetings deemed necessary by a majority of the membership or when requested by the Governor.

(5) The members of the Governor's council shall serve without compensation for their services but shall be reimbursed, subject to the provisions of KRS 45.101 and state travel regulations, for all actual and necessary expenses incurred in the performance of their duties as members of the council.

Section 561. KRS 148.855 is amended to read as follows:

(1) The secretary of the Tourism Development Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the Tourism Development Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 148.857(1) do not conflict.

(3) With respect to each eligible company making an application to the secretary of the Tourism Development Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the Tourism Development Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars ($1,000,000), except for a theme restaurant destination attraction's project cost, which shall exceed five million dollars ($5,000,000), and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. If the tourism attraction project is an entertainment destination center, the sales tax refund shall be dedicated to a public infrastructure purpose that shall relate to the tourism attraction project and shall be approved by the secretary of the Tourism Development Cabinet. The applicant shall submit the public infrastructure purpose with its application. Based upon a review of these materials, if the secretary of the Tourism Development Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the Tourism Development Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

(4) After receiving a preliminary approval by the authority, the secretary of the Tourism Development Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:

(a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent

(50%) of its visitors from among persons who are not residents of the Commonwealth;

(b) Shall have costs in excess of one million dollars ($1,000,000), except for a theme restaurant destination attraction, which shall have costs in excess of five million dollars ($5,000,000);

(c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;

(d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year, except for a theme restaurant destination attraction, which shall be operating and open to the public for a minimum of three hundred (300) days per year; and

(e) Shall not adversely affect existing employment in the Commonwealth.

(5) The independent consulting firm shall consult with the authority, the Office of the State Budget Director ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] in the development of a report on the proposed tourism attraction project. The Office of the State Budget Director ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the authority, the Office of the State Budget Director ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] shall certify to the authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(6) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(7) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the Tourism Development Cabinet shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 562. KRS 148.859 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:

(a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company. Any increase in approved costs incurred by the approved company and agreed to by the authority shall apply retroactively for purposes of calculating the carry forward for unused inducements as set forth in KRS 139.536(3) for tax years commencing on or after July 1, 2004;

(b) A date certain by which the approved company shall have completed the tourism attraction project. Upon request from any approved company that has received final approval prior to or after July 15, 2000, the authority shall grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority;

(c) The following provisions:

1. The term shall be ten (10) years from the later of:

a. The date of the final approval of the project; or

b. The original completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement date of the term;

2. Within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 148.851 to 148.860. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the ***Department of*** Revenue[~~ Cabinet~~] that the approved company is in compliance with this section; and

3. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:

a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; or

b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days; and

(d) Upon request from an approved company that has completed at least fifty percent (50%) of an entertainment destination center, the authority shall grant an extension of up to three (3) years to the completion date specified in the agreement of the approved company, in addition to the extension provided for in paragraph (b) of this subsection. In no event shall the completion date be more than six (6) years from the date of final approval. The extension provided for in this paragraph shall be subject to the following conditions:

1. The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;

2. The term of the agreement shall not be extended; and

3. The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.

Section 563. KRS 149.570 is amended to read as follows:

(1) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the assessment due the county from each owner of timberland in accordance with the rate fixed by the county governing body and the amount of timberland acreage indicated on the property tax roll.

(2) The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue[~~ Cabinet~~].

(3) The county clerk shall deliver these bills to the sheriff for collection as provided in KRS 133.220(3).

Section 564. KRS 151.730 is amended to read as follows:

(1) The authority is hereby authorized to provide, at one (1) time or from time to time, for the issuance of its revenue bonds for the purpose of paying all or any part of the cost of any one (1) or more projects undertaken pursuant to KRS 151.720. The principal of and the interest on such bonds shall in each instance be payable solely from a special fund provided for the payment, with revenues derived from water use fees collected from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes, pledged to be set aside and deposited in such special fund. The bonds of any issue may be in one (1) or more series and any one (1) or more such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest, shall mature at such time or times not exceeding the thirtieth anniversary of their respective dates, all as may be provided by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of bonds including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the facsimile signature of the chairman of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual signature of the treasurer of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this section shall have and are hereby declared to have all qualities and incidents of negotiable instruments under the uniform commercial code of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds at public sale, and for such price as it may determine will best effect the purposes of KRS 151.720.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which such bonds shall have been issued, and shall be disbursed in such a manner and under such restrictions, if any, as the authority may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking

fund or funds for such bonds or any account or accounts therein as the authority shall have provided in the proceedings or trust indenture authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(4) The authority may issue revenue bond anticipation notes.

(5) Any holder of bonds issued under the provisions of this section or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent of the rights given in this section, may be restricted by such trust indenture or proceedings, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted under this section or under such trust indenture or the proceedings authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this section or by such trust indenture or proceedings to be performed by the authority or by any officer or employee thereof.

(6) Revenue bonds issued under the provisions of this section shall not be a debt, liability, or obligation of the Commonwealth or any political subdivision thereof and shall not be a pledge of the faith and credit of the Commonwealth or any political subdivision thereof.

(7) Revenue bonds issued by the authority shall be subject to the jurisdiction and approval of the State Property and Buildings Commission and the Capital Projects and Bond Oversight Committee and shall be subject to review by the Office of Financial Management ***established in Section 11 of this Act***.

(8) The authority shall not be required to pay any taxes and assessments to the Commonwealth or any county, municipality, or other governmental subdivision of the Commonwealth upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this section, or upon any moneys, funds, revenues, or other income held or received by the authority and the bonds or notes of the authority and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers.

(9) Contractual expenses to construct, reconstruct, provide for the major maintenance, or repair the Kentucky River locks and dams, or to maintain the channel, or to acquire real or personal property pertaining thereto, or to construct, reconstruct, maintain, or repair such property, shall be paid from the proceeds of the revenue bonds. Expenses for administrative services and necessary travel expenses and per diem compensation of authority members, shall not be paid from the proceeds of the revenue bonds. Nor shall the cabinet's cost of operating the locks be paid from the proceeds of the revenue bonds.

Section 565. KRS 153.180 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.

(2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management ***established in Section 11 of this Act*** consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:

  (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.

  (b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.

(3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.

(4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.

(5) The foundation shall be attached to the office of the secretary for the Education, Arts, and Humanities Cabinet for

administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.

(6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

Section 566. KRS 154.12-2086 is amended to read as follows:

(1) The Bluegrass State Skills Corporation may, in accordance with KRS 154.12-2084 to 154.12-2089, award a credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 to an approved company. The amount of the skills training investment credit awarded by the Bluegrass State Skills Corporation shall be an amount equal to fifty percent (50%) of the amount of approved costs incurred by the approved company in connection with its program of occupational upgrade training or skills upgrade training, the credit amount not to exceed five hundred dollars ($500) per employee and, in the aggregate, not to exceed one hundred thousand dollars ($100,000) for each approved company per biennium. The Bluegrass State Skills Corporation shall only approve one (1) application per biennium for each qualified company.

(2) The skills training investment credit shall be credited on the income tax return of the approved company filed for the fiscal year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in accordance with KRS 154.12-2088(6). The skill training investment credits allowed under KRS 154.12-2084 to 154.12-2089 shall only be used by the approved company that has been awarded the credits in accordance with KRS 154.12-2084 to 154.12-2089. The skills training investment credits provided for in this section shall be in addition to all other tax credits granted under the laws of the Commonwealth.

(3) The skills training investment credits may be carried forward for three (3) successive fiscal years of the approved company if the amount allowable as credits exceeds the income tax liability of the approved company in the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation; however, thereafter, if the amount allowable as credits exceeds the income tax liability of the approved company, the excess credits shall not be refundable or carried forward to any other fiscal year of the approved company for which a tax return of the approved company is to be filed.

(4) A qualified company shall not be entitled to receive the skills training investment credits if the qualified company requires that the employee reimburse the employer or otherwise pay for any costs or expenses incurred in connection with the occupational upgrade training or skills upgrade training.

(5) To the extent that any expenditures of a qualified company constitute approved costs and are the basis for the skills training investment credits under KRS 154.12-2084 to 154.12-2089, these expenditures shall not be eligible as the basis for grants-in-aid under Bluegrass State Skills Corporation provisions in KRS 154.12-204 to 154.12-208 or the Local Government Economic Development Program under the provisions of KRS 42.4588 to 42.4595.

(6) Priority consideration for preliminary approval under KRS 154.12-2088 shall be given to qualified companies that the Bluegrass State Skills Corporation determines to be high performance companies. A minimum of thirty percent (30%) of the total skills training investment credits authorized by the Bluegrass State Skills Corporation during any fiscal year shall be awarded to qualified companies that have been designated as high performance companies by the Bluegrass State Skills Corporation. The Bluegrass State Skills Corporation shall establish guidelines and standards for the designation of high performance companies.

(7) By October 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the Bluegrass State Skills Corporation the amount of any skills training investment credits taken pursuant to KRS 154.12-2084 to 154.12-2089 on tax returns filed during the fiscal year ending June 30 of that year.

Section 567. KRS 154.20-256 is amended to read as follows:

(1) The approval of investment funds and investment fund managers shall be made pursuant to an application to the authority submitted by a proposed fund manager on behalf of a proposed investment fund and shall include:

(a) The name, address, and Social Security number or employer identification number, as applicable, of the investment fund manager and the investment fund;

(b) The applicant's business plan, including the minimum and maximum amount of cash contributions to be solicited for the investment fund, and strategy for operation of the proposed investment fund;

(c) The amount of credits the investment fund seeks for making qualified investments;

(d) The applicant fund manager's relevant experience and demonstrated ability to manage the proposed investment fund;

(e) The location and account number of a bank account that has been established for use by the investment fund;

(f) The exemption or registration provision that is being relied upon or intended to be relied upon by both the investment fund and the investment fund manager to permit this offering of securities and the activity of the investment fund manager in relation to the offering, in compliance with applicable state and federal securities laws and regulations;

(g) A representation that the investment fund and the investment fund manager are and shall remain in compliance with applicable state and federal securities regulations; and

(h) Any additional information the authority deems necessary.

(2) The applicant shall include copies of the following documents as attachments to the application:

(a) The disclosure documents used in connection with the offering and investment in the investment fund;

(b) The disclosure documents provided to each investor which state that:

1. The investor has certain rights, responsibilities, and liabilities pursuant to KRS 154.20-250 to 154.20-284;

2. The Commonwealth shall be immune from liability for any losses or damages investors, investment funds, or investment fund managers may incur pursuant to KRS 154.20-279;

3. No tax credit shall be available under the provision of KRS 154.20-250 to 154.20-284 until the investment fund and the investment fund manager have complied with applicable state and federal securities laws and regulations and have been approved by the authority, and an agreement has been executed, and the terms of that agreement have been disclosed in writing to each investor; and

4. Investors shall lose all rights to any unused credits allocated to an investment fund that does not make a qualified investment within one (1) year of the date of the agreement with the authority or within any one (1) year period thereafter through the end of the term of the agreement.

An applicant soliciting cash contributions for the initial capitalization of an investment fund, or an investment fund manager soliciting additional cash contributions for an approved investment fund, shall disclose in advance and in writing to each potential investor those items described in this subsection in addition to any other items required by law or by agreement.

(3) The authority shall have, in addition to its other powers provided in this chapter and as otherwise provided by law, all powers and authority, not explicitly prohibited by statute, that are necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of KRS 154.20-250 to 154.20-284, including but not limited to power to:

(a) Require consultation, advisory, and legal fees and other expenses the authority deems necessary or incident to the preparation, adoption, implementation, modification, or enforcement of the terms of any agreement or other document, or otherwise necessary or incident to any transaction;

(b) Require the investment fund manager to pay these fees and expenses directly to the person providing such consultation, advisory, legal, or other services on behalf of the authority; and

(c) Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges.

Any payments made by an investment fund manager pursuant to this subsection may be passed on to the investment fund manager's investment fund.

(4) An investment fund's stated purpose shall be primarily to encourage and assist in the creation, development, or expansion of small businesses located in Kentucky.

(5) The criteria considered by the authority for the approval of investment fund managers and the maximum amount of credits allocated to the investors of an investment fund shall include but not be limited to:

(a) Compliance by those persons with applicable state and federal securities laws and regulations;

(b) A review of the application;

(c) The investment strategy for the investment fund;

(d) The relevant experience of the applicant fund manager or, if the applicant fund manager is an entity, the applicant's management;

(e) The applicant's demonstrated ability to manage the investment fund; and

(f) The amount of credits requested by the investment fund and the total amount of credits which may be granted to investors under KRS 154.20-258.

(6) Following the making of a qualified investment, the investment fund manager shall within sixty (60) days file a disclosure form with the authority detailing the following information:

(a) The name and address of the small business in which the qualified investment was made;

(b) The amount of the qualified investment; and

(c) The name, address, and Social Security number or employer identification number, as may be applicable, of each investor and the amount of credit allocated to each investor by virtue of the investor's proportional ownership interest in the qualified investment.

(7) An investment fund manager and its affiliates may operate no more than three (3) separate investment funds pursuant to separate applications submitted to and approved by the authority, provided the investment fund manager is in compliance with any applicable state and federal securities laws and regulations as evidenced by a written statement to the authority by an investment fund manager to that effect.

(8) An investment fund manager seeking to expand a previously approved investment fund shall submit to the authority an

amended application in a form acceptable to the authority.

(9) An investment fund shall lose all unused credits that are available to its investors if the investment fund does not make a qualified investment within one (1) year of the date of the agreement or within any one (1) year period thereafter through the end of the term of the agreement.

(10) The contents of the information form required under subsections (1), (2), and (6) of this section shall be treated by the authority and by the ***Department of*** Revenue[~~ Cabinet~~] as confidential and shall not be considered public records under KRS 61.870 to 61.884.

(11) The authority, in consultation with the ***Department of*** Revenue[~~ Cabinet~~], may establish additional procedures and standards, as it deems necessary for the approval of investment funds and investment fund managers, and for the allocation and granting of investment tax credits by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

Section 568. KRS 154.20-258 is amended to read as follows:

(1) An investor shall be entitled to a nonrefundable credit equal to forty percent (40%) of the investor's proportional ownership share of all qualified investments made by its investment fund and verified by the authority. The aggregate tax credit available to any investor shall not exceed forty percent (40%) of the cash contribution made by the investor to its investment fund. The credit may be applied against the income tax imposed by KRS 141.020 or 141.040, the corporation license tax imposed by KRS 136.070, the insurance taxes imposed by KRS 136.320, 136.330, and 304.3-270, and the taxes on financial institutions imposed by KRS 136.300, 136.310, and 136.505.

(2) The tax credit amount that may be claimed by an investor in any tax year shall not exceed fifty percent (50%) of the initial aggregate credit amount approved by the authority for the investment fund which would be proportionally available to the investor. An investor may first claim the credit granted in subsection (1) of this section in the year following the year in which the credit is granted.

(3) If the credit amount that may be claimed in any tax year, as determined under subsections (1) and (2) of this section, exceeds the investor's combined tax liabilities against which the credit may be claimed for that year, the investor may carry the excess tax credit forward until the tax credit is used, but the carry-forward of any excess tax credit shall not increase the fifty percent (50%) limitation established by subsection (2) of this section. Any tax credits not used within fifteen (15) years of the approval by the authority of the aggregate tax credit amount available to the investor shall be lost.

(4) The tax credits allowed by this section shall not apply to any liability an investor may have for interest, penalties, past due taxes, or any other additions to the investor's tax liability. The holder of the tax credit shall assume any and all liabilities and responsibilities of the credit.

(5) The tax credits allowed by this section are not transferable, except that:

(a) A nonprofit entity may transfer, for some or no consideration, any or all of the credits it receives under this section and any related benefits, rights, responsibilities, and liabilities. Within thirty (30) days of the date of any transfer of credits pursuant to this subsection, the nonprofit entity shall notify the authority and the ***Department of*** Revenue[~~ Cabinet~~] of:

1. The name, address, and Social Security number or employer identification number, as may be applicable, of the party to which the nonprofit entity transferred its credits;
2. The amount of credits transferred; and
3. Any additional information the authority or the ***Department of*** Revenue[~~ Cabinet~~] deems necessary.

(b) If an investor is an entity and is a party to a merger, acquisition, consolidation, dissolution, liquidation, or similar corporate reorganization, the tax credits shall pass through to the investor's successor.

(c) If an individual investor dies, the tax credits shall pass to the investor's estate or beneficiaries in a manner consistent with the transfer of ownership of the investor's interest in the investment fund.

(6) The tax credit amount that may be claimed by an investor shall reflect only the investor's participation in qualified investments properly reported to the authority by the investment fund manager. No tax credit authorized by this section shall become effective until the ***Department of*** Revenue[~~ Cabinet~~] receives notification from the authority that includes:

(a) A statement that a qualified investment has been made that is in compliance with KRS 154.20-250 to 154.20-284 and all applicable regulations; and

(b) A list of each investor in the investment fund that owns a portion of the small business in which a qualified investment has been made by virtue of an investment in the investment fund, and each investor's amount of credit granted to the investor for each qualified investment.

The authority shall, within sixty (60) days of approval of credits, notify the ***Department of*** Revenue[~~ Cabinet~~] of the information required pursuant to this subsection and notify each investor of the amount of credits granted to that investor, and the year the credits may first be claimed.

(7) After the date on which investors in an investment fund have cumulatively received an amount of credits equal to the amount of credits allocated to the investment fund by the authority, no investor shall receive additional credits by virtue of

its investment in that investment fund unless the investment fund's allocation of credits is increased by the authority pursuant to an amended application.

(8) The maximum amount of credits to be authorized by the authority shall be three million dollars ($3,000,000) for each of fiscal years 2002-03 and 2003-04.

Section 569. KRS 154.20-260 is amended to read as follows:

(1) To receive the credit provided by KRS 154.20-258, an investor shall claim the credit on the investor's annual state tax returns in the manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~].

(2) The contents of an investor's filings under subsection (1) of this section shall be treated by the authority and by the ***Department of*** Revenue[~~ Cabinet~~] as confidential and shall not be considered public records under the Kentucky Open Records Act, KRS 61.870 to 61.884.

Section 570. KRS 154.20-262 is amended to read as follows:

(1) An investment fund that violates the provisions of KRS 154.20-250 to 154.20-284 shall pay to the State Treasurer a penalty in an amount equal to the amount of all credits claimed by the investors when these credits are determined to be derived from unqualified investments, plus interest at the rate of two percent (2%) per month, compounded monthly, from the date the credits were taken. If the investment fund fails to pay the penalty and interest in full as required by the ***Department of*** Revenue[~~ Cabinet~~], each investor shall be personally liable to the ***Department of*** Revenue[~~ Cabinet~~] for that investor's share of the unpaid penalty, which shall be determined by the amount of credits received and utilized by the investor and all applicable interest. Any payment of unpaid penalty by an investor shall be included with the investor's state tax return for the period in which the failure or violation occurred. The ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] shall give notice in writing to the authority, the investment fund manager, and the investors of any penalties imposed. The ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] may abate any imposed penalty upon written request, if the investment fund manager establishes reasonable cause for the failure to make qualified investments in small businesses under the provisions of KRS 154.20-250 to 154.20-284, or to otherwise comply with the provisions of KRS 154.20-250 to 154.20-284. The State Treasurer shall deposit any amounts received pursuant to this section in the Commonwealth's general fund.

(2) The administration of this section shall be the responsibility of the ***Department of*** Revenue[~~ Cabinet~~].

Section 571. KRS 154.20-264 is amended to read as follows:

(1) Each investment fund manager shall file an annual report with the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] and with the authority, on or before February 15 of each year during which it manages an investment fund. This report shall include information that the authority prescribes from time to time, including but not limited to the following:

  (a) For each small business in which qualified investments are made by the investment fund during the reporting period, the name and address of the small business, the amount of qualified investments made by the investment fund, the job creation anticipated and achieved by the small business, and new products and technologies being developed by the small business;

  (b) An affidavit prepared by the investment fund manager or, if the investment fund is an entity, by an authorized officer, partner, trustee, member, or manager of the investment fund management firm that states:

    1. At the time of each qualified investment, each small business qualifies as a small business under the provisions of KRS 154.20-250 to 154.20-284;

    2. The name and address of each investor, and the amount of cash contribution to the investment fund of each investor who is entitled to the credits; and

    3. The continued compliance by the investment fund and the investment fund manager with all applicable state and federal securities laws and regulations.

(2) The authority shall provide an annual written status report to the standing Appropriations and Revenue Committee of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate, concerning the activities of the Kentucky investment fund for each fiscal year beginning with the fiscal year ended July 30, 2003. On or before November 1 of each year, the authority shall make an annual report for the preceding fiscal year to the Governor, the Legislative Research Commission, and the Kentucky Innovation Commission. The annual report shall include but not be limited to the following information:

  (a) The total number of investors and the aggregate amount of committed cash contributions to all investment funds, categorized by the types of business entities through which investors conduct business and the geographical distribution of investors, including the area development districts;

  (b) The total number and amounts of qualified investments made by each investment fund to qualified small businesses, categorized by type of businesses, amount of investment, job creation anticipated and achieved, geographical distribution, including area development districts, and new products and technologies developed; and

  (c) The total amount of credits granted to investors.

(3) The contents of the annual reports from investment fund managers to the authority described in subsection (1) of this

section shall be treated by the authority as confidential, and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.

(4) The authority may charge a fee in connection with the administration and processing of an annual report made by an investment fund manager.

Section 572. KRS 154.20-277 is amended to read as follows:

(1) Each investment fund manager shall cause the books and records of the investment fund to be audited on an annual basis by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied. The audit shall address the financial condition of the investment fund and compliance with the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284. Each year the audit report shall be completed and certified by the independent certified public accountant and delivered to the authority within ninety (90) days after the end of the investment fund's fiscal year.

(2) The authority and the ***Department of*** Revenue[~~ Cabinet~~], individually or collectively, may examine, under oath, any of the officers, trustees, partners, members, managers, directors, agents, employees, or investors of an investment fund regarding the affairs and business of the investment fund. The authority and the ***Department of*** Revenue[~~ Cabinet~~], individually or collectively, may issue subpoenas and subpoenas duces tecum and administer oaths. Refusal to obey such a subpoena or subpoena duces tecum may be reported to the Franklin Circuit Court, which shall enforce the subpoena or subpoena duces tecum according to the rules of civil or criminal procedure, as applicable.

(3) In addition to the audits required by this section, the authority or the ***Department of*** Revenue[~~ Cabinet~~] may audit one (1) or more investment funds or investment fund managers in any year on a random basis or for cause. The authority or the ***Department of*** Revenue[~~ Cabinet~~] may also audit, for cause, any small business in which an investment fund has made a qualified investment. Nothing in this section shall be construed to prohibit the ***Department of*** Revenue[~~ Cabinet~~] from conducting any audit relating to the administration or enforcement of the tax laws of the Commonwealth which the ***Department of*** Revenue[~~ Cabinet~~] determines to be appropriate.

(4) If any audit conducted pursuant to this section discloses that an investment fund or investment fund manager is not in compliance with the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284, the authority and the ***Department of*** Revenue[~~ Cabinet~~] may consult with one another with respect to this noncompliance and the ***Department of*** Revenue[~~ Cabinet~~] may exercise any of its powers to protect the Commonwealth's interest and to enforce the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284.

(5) The authority may give an investment fund manager written notice of any noncompliance with the provisions of KRS 154.20-250 to 154.20-284 and specify a period of time the investment fund manager shall have to cure any noncompliance. Failure to cure any such noncompliance within the period of time specified by the authority may result in further action by the authority pursuant to this section.

(6) Nothing in this section shall be construed to prohibit the Department of Financial Institutions, Division of Securities, or any other securities regulatory organization or body with jurisdiction over the activity of an investment fund or the investment fund manager from conducting any examination or investigation relating to the securities activities of the investment fund or investment fund manager. If any examination or investigation conducted pursuant to any securities laws or regulations discloses that an investment fund or investment fund manager is not in compliance with any provision of any applicable securities laws or regulations, the appropriate securities regulator may take whatever action it deems appropriate in accordance with such securities laws and regulations to respond to the noncompliance, notwithstanding any action the authority or the ***Department of*** Revenue[~~ Cabinet~~] may or may not take with respect to the noncompliance.

Section 573. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a tax incentive agreement with respect to its economic development project, upon adoption of a resolution authorizing the tax incentive agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each tax incentive agreement shall be determined by negotiations between the authority and the approved company.

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date.

(5) The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the ***Department of*** Revenue[~~ Cabinet~~], and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the

activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.

(7) The approved company shall comply with the hourly wage criteria set forth in KRS 154.22-040(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(8) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

(b) The aggregate assessments withheld by the approved company in each year.

(9) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.

(10) The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(11) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.

Section 574. KRS 154.22-060 is amended to read as follows:

(1) The approved company shall be entitled to a credit against the Kentucky income tax liability mandated by KRS Chapter 141, on any income that may result from the operation of the approved economic development project; the credit shall be equal to the total amount of the tax liability, and together with the aggregate assessments not to exceed the maximum amount of inducements as set forth in the tax incentive agreement.

(2) By October 1 of each year, the ***Department of*** Revenue~~[Cabinet]~~ of the Commonwealth shall certify to the authority in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 575. KRS 154.23-040 is amended to read as follows:

(1) Before any approved company engaged in service or technology activity is granted inducements under KRS 154.23-005 to 154.23-079, a service and technology agreement with respect to the approved company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the service and technology agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to inclusion of the following mandatory provisions:

(a) The term of the service and technology agreement shall commence upon the activation date and shall terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date.

(b) The service and technology agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the service and technology agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the service and technology agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the service and technology agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(c) In order to implement the activation date, the approved company shall notify the authority, the Kentucky ***Department of*** Revenue[~~Cabinet~~], the qualified statewide employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the service and technology agreement shall occur;

(d) The approved company may be permitted the following inducements during the term of the service and technology agreement:

1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under KRS 141.401, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and KRS 154.23-045; and
2. The assessment, if applicable, withheld by the approved company in each year;

(e) The inducements allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed;

(f) If the total number of full-time qualified employees at the site of the economic development project is less than ten (10) or, in the case of an existing business, the approved company fails to maintain the increase of at least ten (10) full-time qualified employees, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least ten (10) new full-time qualified employees at the site within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority;

(g) The service and technology agreement may be assigned by the approved company only upon the prior written consent of the authority; and

(h) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

(2) Before the end of the first year following the activation date, the authority shall, using data supplied by the approved company, verify and determine the total start-up costs for the approved company's economic development project. The initial approved costs shall be up to a maximum of fifty percent (50%) of the start-up costs.

(3) Each year, during the ten (10) year term of the service and technology agreement, up to fifty percent (50%) of the annualized rent shall be added to the unrecouped balance of approved costs, and the inducements earned shall be subtracted from the approved costs.

(4) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the accumulated inducements equal the unrecouped remaining balance of the approved costs then expended, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year.

(5) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the remaining balance of the approved costs then expended, the approved company shall pay the excess to the Commonwealth as income tax.

(6) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the assessment collected from the wages of the qualified statewide employees exceeds the unrecouped remaining balance of the approved costs then expended, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments.

Section 576. KRS 154.23-050 is amended to read as follows:

(1) An approved company engaged in manufacturing or in service or technology activities shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax liability that would otherwise be due to the Commonwealth from the approved company attributable to its economic development project, as limited by the provisions of KRS 154.23-045.

(2) The ***Department of*** Revenue~~[Cabinet]~~ of the Commonwealth shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of qualified zone inducements on state revenues. The ***Department of*** Revenue~~[Cabinet]~~ shall certify to the authority, in the form of an annual report, aggregate income tax credits and assessments taken by approved companies with respect to their economic development projects under KRS 154.23-005 to 154.23-079, and certify to the authority when an approved company has taken income tax credits and assessments equal to its total inducements. The ***Department of*** Revenue~~[Cabinet]~~ shall certify to the authority, upon written request of the authority, the aggregate income tax credits and assessments taken by an approved company with respect to its economic development project under KRS 154.23-005 to 154.23-079.

Section 577. KRS 154.24-110 is amended to read as follows:

(1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and KRS 154.24-130. The amount of the approved company's income that is attributable to the economic development project shall be determined under KRS 141.407.

(a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed; and

(b) By October 1 of each year, the ***Department of*** Revenue~~[Cabinet]~~ of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits and assessments equal to its total inducements.

(2) The approved company or, with the authority's consent, an affiliate of the approved company may require each employee, subject to state tax imposed by KRS 141.020, as a condition of employment, to agree to pay a service and technology job creation assessment fee up to five percent (5%) of the gross wages exclusive of any noncash benefits provided to an employee for each employee whose job has been deemed by the authority to be created as a result of the economic development project, provided that the service and technology job creation assessment fee shall not exceed the amount determined in accordance with KRS 154.24-150(5) if the circumstances in that subsection apply. Where a person is already employed by the approved company at a site other than the site of the economic development project and where that employee is subject to state tax imposed by KRS 141.020, the employee's job shall be deemed to have been created when the employee is transferred to the site of the economic development project, provided that the employee's existing job is filled with a new employee.

(a) Each employee paying the assessment shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to four-fifths (4/5) of the assessment;

(b) If the assessment has been approved by the local jurisdiction as provided in KRS 154.24-150, each employee paying the assessment also shall be entitled, in the local jurisdiction in which the economic development project is located, to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment. If more than one (1) local tax is incurred, the one-fifth (1/5) assessment shall be prorated proportionately among the taxes unless one (1) local jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the one-fifth (1/5) assessment, in which case no proration need be made;

(c) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee;

(d) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction;

(e) The approved company collecting an assessment shall make its payroll, books, and records available to the authority when the authority shall request, and shall file with the authority documentation pertaining to the assessment as the authority may require; and

(f) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the agreement.

(3) Notwithstanding subsection (2) of this section, if a local government in which the project is located has a local occupational license fee that is less than one percent (1%) and agrees to forgo all of its local occupational license fee, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee that the local government has agreed to forgo. Each employee paying the assessment under this subsection shall be entitled to a credit against Kentucky income tax, under KRS 141.350, equal to four percent (4%) and a credit against the local occupational license fee equal to the local occupational license fee that the local jurisdiction has agreed to forgo.

Section 578. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within two (2) years after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky ***Department of*** Revenue[~~Cabinet~~], the employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15), or in the case of an existing Kentucky business the approved company fails to maintain the increase of at least fifteen (15) full-time employees who are residents of the Commonwealth and subject to the Kentucky income tax, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority;

(c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended for a period of up to one (1) year. If the percentage of these services does not exceed seventy-five percent (75%) within one (1) year from the initial date of suspension, the inducements may be terminated at the discretion of the authority; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 579. KRS 154.26-090 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into, with any approved company, an agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, the amount of the license tax credit pursuant to KRS 136.0704, and any limitations the authority may deem necessary, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) The amount the approved company may recover through inducements under this subchapter shall not exceed seventy-five percent (75%) of approved costs.

(b) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant.

(c) In consideration of the execution of the agreement, the approved company may be permitted during the time not to exceed ten (10) years during which the agreement is in effect, which time shall commence on the date of the agreement for purposes of the inducements:

1. A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic revitalization project as determined under KRS 141.403;

2. A credit against the Kentucky license tax imposed by KRS 136.070 as determined under KRS 136.0704; plus

3. The aggregate assessment withheld by the approved company in each year.

(d) The tax credits allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or the amount that the company may recover under paragraph (a) of this subsection that has not yet been recovered, reduced by any recovery through the collection of assessments and appropriations made under any appropriation agreement. The credit shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed until the amount that the company may recover under paragraph (a) of this subsection has been received through a combination of credits, assessments, if assessments are elected to be imposed, and appropriations made under any appropriation agreement. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the ***Department of*** Revenue[~~Cabinet~~] of the Commonwealth shall certify to the authority for the preceding fiscal year of an approved company for which a return was filed with respect to an economic revitalization project of the approved company the state tax liability of the approved company receiving inducements under KRS 154.26-015 to 154.26-100 and the amount of any tax credits taken pursuant to this section.

(e) The agreement shall provide that the term shall not be longer than the earlier of:

1. The date on which the approved company has received inducements or withheld assessments equal to the amount that the company may recover under paragraph (a) of this subsection; or

2. Ten (10) years from the date of the execution of the agreement.

(f) Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

1. A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or

2. In lieu of the credit against the local occupational license fee, an appropriation agreement with the authority and the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

(g) If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.

(h) If in any fiscal year of the approved company during which the agreement is in effect the total of the tax credits granted to the approved company plus the assessment collected from the wages of the employees exceeds the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection, the approved company shall pay the excess to the Commonwealth as income tax.

(i) If in any fiscal year of the approved company during which the agreement is in effect the assessment collected from the wages of the employees exceeds the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(j) All proceeds of any loan or other financing incurred in connection with the economic revitalization project shall be expended by the approved company within five (5) years from the date of the revitalization agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic revitalization project are not fully expended within the five (5) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the five (5) year period.

(2) If the approved company elects to utilize the assessment as prescribed in KRS 154.26-100, it shall not assess the wages of an employee who is party to an individual employment contract with the approved company.

(3) Neither the appropriation agreement nor the agreement shall be transferable or assignable by the approved company without the expressed written consent of the authority.

Section 580. KRS 154.26-100 is amended to read as follows:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed, during any fiscal year of the approved company, five percent (5%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project, unless:

(a) The appropriation agreement is consummated, in which case the assessment shall be four percent (4%) of each employee's gross wages subject to the income tax imposed by KRS 141.020;

(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the assessment shall equal four percent (4%) plus the percentage of the local occupational license fee that the local government or governments have agreed to forgo; or

(c) The local government or governments in which the project is located have no occupational license fee, in which case the assessment shall be four percent (4%).

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS

141.310 in the form of a simultaneous adjustment equal to four-fifths (4/5) of the assessment, unless:

(a) The appropriation agreement is consummated, in which case the credit shall be equal to one hundred percent (100%) of the assessment;

(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the credit shall be equal to the total assessment less the local occupational license fee; or

(c) If the local government or governments in which the project is located have no local occupational license fee, in which case the credit shall be equal to one hundred percent (100%) of the assessment.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment, unless:

(a) The appropriation agreement is consummated; or

(b) The local occupational license fee is less than one percent (1%), in which case the credit shall equal the same amount as the local occupational license fee.

(4) If an approved company shall elect to impose the assessment as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsections (2) and (3) of this section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall permanently lapse upon expiration or termination of the agreement.

(7) By October 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and job revitalization assessment fees taken during the prior calendar year by approved companies with respect to their economic revitalization projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 581. KRS 154.28-090 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, an agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky ***Department of*** Revenue[~~ Cabinet~~], and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under KRS 154.28-010(11) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.

(6) The approved company shall comply with the wage criteria set forth in KRS 154.28-080(4) and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted one of the following inducements during the term of the agreement and shall select the applicable inducement at the time of final approval by the authority:

(a) A one hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; or

(b) The aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year.

(8) Either the total income tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.

(9) If the approved company elects to use the income tax credit, the income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:

(a) Suspend either the income tax credits or assessments available to the approved company, pursuant to subsection (5) of this section;

(b) Pursue any remedy provided under the agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(12) All remedies provided in subsection (11) of this section shall be deemed to be cumulative.

(13) By October 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic development projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits or assessments equal to its total inducements.

Section 582. KRS 154.34-080 is amended to read as follows:

The authority, upon adoption of its final approval, may enter into with any approved company a reinvestment agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each reinvestment agreement shall include the following provisions:

(1) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document its expenditures of the eligible costs attributable to the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of a consultant or other technical resources employed by the authority;

(2) In consideration of the execution of the agreement between the authority and approved company, the approved company may be permitted one (1) or both of the following inducements:

(a) A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the reinvestment project as determined under KRS 141.415;

(b) A credit against the Kentucky license tax imposed by KRS 136.070 on the approved company as determined under KRS 141.416;

(3) The total inducements authorized in the agreement for the benefits of the approved company shall be equal to the lesser of the total amount of the tax liability or the approved costs that have not yet been recovered. The inducements shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the project;

(4) The agreement shall provide that the term shall not be longer than the earlier of:

(a) The date on which the approved company has received inducements equal to the approved costs of its reinvestment project; or

(b) Ten (10) years from the date of final approval granted by the authority;

(5) All eligible costs of the project shall be expended by the approved company within three (3) years from the date of final approval by the authority. In the event that all eligible costs of the project are not fully expended by the approved company within the three (3) year period, the authority is authorized to:

(a) Reduce the inducements; or

(b) Suspend the inducements; or

(c) Terminate the agreement;

(6) If the agreement is terminated, the authority may require the approved company to repay the ***Department of*** Revenue[~~ Cabinet~~] of the Commonwealth all or part of any inducements received by the approved company prior to the termination of the agreement;

(7) The agreement shall specify that the approved company shall make available all of its records pertaining to the project, including but not limited to payroll records, records relating to the expenditure of eligible costs and approved costs, and any other records pertaining to the project as the authority may require; and

(8) The agreement shall not be transferred or assigned by the approved company without the expressed written consent of the authority.

Section 583. KRS 154.34-090 is amended to read as follows:

By October 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year by approved companies with respect to their reinvestment projects under KRS 154.34-010 to 154.34-100, 141.415, and 141.416, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken inducements equal to its approved costs.

Section 584. KRS 154.45-060 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 154.45-020 to 154.45-110, there is created the Enterprise Zone Authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky League of Cities; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business community; one (1) member appointed by the Governor from a list of three (3) persons nominated by the AFL-CIO of Kentucky; two (2) members appointed by the Governor to serve at large; one (1) member appointed by the Governor from a list of five (5) persons nominated by the secretary of the Cabinet for Economic Development; the secretary of the Cabinet for Economic Development or his designee; the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet or his designee; and the secretary of the Cabinet for Families and Children or his designee.

(2) Authority members shall serve a term of four (4) years and, except for the secretary of the Cabinet for Economic Development, the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet, and the secretary of the Cabinet for Families and Children, shall not be eligible to succeed themselves.

(3) The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as an enterprise zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings. All members shall serve until such time as their successors are qualified and appointed. Each member of the authority shall receive one hundred dollars ($100), not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.

(4) The Cabinet for Economic Development shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 585. KRS 154.45-070 is amended to read as follows:

The authority shall administer the provisions of KRS 154.45-020 to 154.45-110, and shall:

(1) Establish by administrative regulation a process to monitor compliance by local governments and qualified businesses with the provisions of the Enterprise Zone Program;

(2) Initiate contact and fully cooperate with the ***Department of*** Revenue[~~ Cabinet~~] in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues;

(3) Report to the General Assembly no later than October 1 annually regarding:

(a) The authority's method of monitoring the Enterprise Zone Program;

(b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues;

(c) The authority's method of reviewing local incentives;

(d) Information on the number of qualified businesses per zone;

(e) Information on the number of requests for amendments to zone boundaries and the number of amendments granted and denied; and

(f) Recommendations requiring state legislative action;

(4) Revoke designation of an area as an enterprise zone pursuant to the provisions of KRS 154.45-050.

(5) Prohibit the certification of businesses in an enterprise zone if the local government has been notified in writing by the authority of the authority's intent to revoke the local government's designation as an enterprise zone. The prohibition of certification of businesses shall continue until the authority officially revokes the local government's enterprise zone designation, or notifies the local government in writing that the problems cited by the authority have been corrected and the enterprise zone designation shall not be revoked;

(6) Offer technical assistance and job training assistance to local governments, qualified businesses, and neighborhood enterprise association corporations; and

(7) Aggressively review local incentives and commitments on an annual basis.

Section 586. KRS 154.45-110 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues.

(2) Report to the General Assembly no later than October 1 annually regarding:

(a) The cabinet's method of monitoring the Enterprise Zone Program;

(b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues; and

(c) Recommendations requiring state legislative action.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall by administrative regulation amend its sales and use tax return to collect fiscal information on qualified businesses within an enterprise zone for purposes of reporting to the General Assembly.

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations to establish a process for the collection of tax information relating to enterprise zone tax exemptions.

Section 587. KRS 156.076 is amended to read as follows:

The chief state school officer shall furnish full information on established price contracts to each district board of education. Any board of education may purchase supplies and equipment from the vendor to whom the contract has been awarded, under the terms of the contract. Any board of education may advertise for its own bids on supplies and equipment which meet the specifications of the contracts awarded by the ***Office***[~~Division~~] of Material and Procurement Services ***in the Office of the Controller***. Any board of education, after advertising for bids, may award contracts if the chief state school officer certifies that the bid offers supplies and equipment which meet the standards and specifications fixed by the Kentucky Board of Education and that the bid price is lower than that established by the price contract agreement. If supplies and equipment that meet the specifications of the contracts awarded by the ***Office***[~~Division~~] of Material and Procurement Services or a federal, local, or cooperative agency are available for purchase elsewhere, a board of education may purchase those supplies and equipment without advertising for bids. However, prior to making the purchases, the board of education shall obtain certification from:

(1) The Department of Education for technology components defined in the master plan for education technology for which standards have been established by the Kentucky Board of Education. The department shall certify that the items to be purchased meet or exceed, at a lower cost, the specifications of the components of the original equipment of manufacturers currently holding Kentucky education technology system price contracts; and

(2) The district's finance officer for supplies and equipment other than that described in subsection (1) of this section. He shall certify that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, the local school district's bid, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the price contract agreement or available through the bidding process and the price does not exceed two thousand five hundred dollars ($2,500).

Section 588. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~], the secretary of the Education, Arts, and Humanities Cabinet, and the president of the Council on Postsecondary Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;

(b) One (1) member of the House of Representatives;

(c) One (1) member of the Senate; and

(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed

for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall receive no compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of rights-of-way for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 589. KRS 157.615 is amended to read as follows:

As used in KRS 157.611 to 157.640, unless the context requires otherwise:

(1) "Available local revenue" means the sum of the school building fund account balance; the bonding potential of the capital outlay and building funds; and the capital outlay fund account balance on June 30 of odd-numbered years. These accounts shall be as defined in the manual for Kentucky school financial accounting systems;

(2) "Board of education" means the governing body of a county school district or an independent school district;

(3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or issued by a city, county, or other agency or instrumentality of the Board of Education, in accordance with KRS Chapter 162, payable as to principal and interest from rentals received from a board of education or from the department pursuant to a lease or from contributions from the commission, and constitute municipal bonds exempt from taxation under the Constitution of the Commonwealth;

(4) "Department" means the State Department of Education;

(5) "District technology plan" means the plan developed by the local district and the Department of Education and approved by the Kentucky Board of Education upon the recommendation of the Council for Education Technology;

(6) "Equivalent tax rate" means the rate which results when the income from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the ***Department of*** Revenue[~~ Cabinet~~] as provided by KRS 160.470;

(7) "Kentucky Education Technology System" means the statewide system set forth in the technology master plan issued by the Kentucky Board of Education with the recommendation of the Council for Education Technology and approved by the Legislative Research Commission;

(8) "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the commission as lessor and a board of education as lessee, or executed by the commission as lessor and the department as lessee, as the case may be;

(9) "Lease/purchase agreement" means a lease between the school district or the department and a vendor that includes an option to purchase the technology equipment or software at the end of the lease period;

(10) "Percentage discount" means the degree to which the commission will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the commission on behalf of a local school district;

(11) "Project" means a defined item of need to construct new facilities or to provide major renovation of existing facilities which is identified on the priority schedule of the approved school facilities plan;

(12) "School facilities plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by administrative

regulations of the Kentucky Board of Education;

(13) "Technology master plan" means the long-range plan for the implementation of the Kentucky Education Technology System as developed by the Council for Education Technology and approved by the Kentucky Board of Education and the Legislative Research Commission;

(14) "Unmet facilities need" means the total cost of new construction and major renovation needs as shown by the approved school facilities plan less any available local revenue;

(15) "Unmet technology need" means the total cost of technology need as shown by the approved technology plan of the local district; and

(16) "Eligible district" means any local school district having an unmet facilities need, as defined in this section, in excess of one hundred thousand dollars ($100,000) or a district qualifying for education technology funding.

Section 590. KRS 160.460 is amended to read as follows:

(1) All school taxes shall be levied by the board of education of each school district. The tax-levying authority shall levy an ad valorem tax within the limits prescribed in KRS 160.470, which will obtain for the school district the amount of money needed as shown in the district's general school budget submitted under the provisions of KRS 160.470.

(2) The tax-levying authority shall make an annual school levy not later than July 1. The school levy shall not be made until the general school budget has been received and approved by the Kentucky Board of Education. The failure of the authority to make the levy by the date prescribed shall not invalidate any levy made thereafter.

(3) All school taxes shall be levied on all property subject to local taxation in the jurisdiction of the tax-levying authority. If the school levy is to be made upon the city assessment, which is hereby authorized for independent school districts embraced by cities of the first four (4) classes, the clerk of the city shall furnish to the school district or districts which the city embraces, the assessed valuation of property subject to local taxation in the school district, as determined by its tax assessor. If the school levy is to be made upon the county assessment the county clerk shall furnish to the proper school district or districts the assessed valuation of property subject to local taxation in the district or districts, as certified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~]. No later than July 1, 1994, all real property located in the state and subject to local taxation shall be assessed at one hundred percent (100%) of fair cash value.

Section 591. KRS 160.470 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection (9) of this section and KRS 157.440.

(b) If an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the "...general tax rate that could have been levied in the preceding year...," referred to in subsection (1)(a) of this section, for purposes of computing the general tax rate for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(2) No district board of education shall levy a general tax rate within the limits imposed in subsection (1) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection (9) of this section, KRS 157.440, and KRS 157.621, until the district board of education has complied with the provisions of subsection (7) of this section.

(3) Upon receipt of property assessments from the ***Department of*** Revenue[~~ Cabinet~~], the commissioner of education shall certify the following to each district board of education:

(a) The general tax rate that a district board of education could levy under the provisions of subsection (1) of this section, and the amount of revenue expected to be produced;

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate the amount of revenue expected to be produced;

(c) The general tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced.

(4) Upon completion of action on property assessment data, the ***Department of*** Revenue[~~ Cabinet~~] shall submit certified property assessment data as required in KRS 133.125 to the chief state school officer.

(5) Within thirty (30) days after the district board of education has received its assessment data, the rates levied shall be forwarded to the Kentucky Board of Education for its approval or disapproval. The failure of the district board of education to furnish the rates within the time prescribed shall not invalidate any levy made thereafter.

(6) (a) Each district board of education shall, on or before January 31 of each calendar year, formally and publicly examine detailed line item estimated revenues and proposed expenditures for the subsequent fiscal year. On or before May 30 of each calendar year, each district board of education shall adopt a tentative working budget which

shall include a minimum reserve of two percent (2%) of the total budget.

(b) Each district board of education shall submit to the Kentucky Board of Education no later than September 30, a close estimate or working budget which shall conform to the administrative regulations prescribed by the Kentucky Board of Education.

(7) (a) Except as provided in subsection (9) of this section and KRS 157.440, a district board of education proposing to levy a general tax rate within the limits of subsection (1) of this section which exceed the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing the following to be published at least twice for two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The general tax rate levied in the preceding year, and the revenue produced by that rate;
2. The general tax rate for the current year, and the revenue expected to be produced by that rate;
3. The compensating general tax rate, and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for testimony.

(8) (a) That portion of a general tax rate, except as provided in subsection (9) of this section, KRS 157.440, and KRS 157.621, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, except as provided in subsection (9) of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The fact that the district board of education has adopted such a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
3. The name, address, and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

(9) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents ($0.30) for general school purposes. Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the ***Department of*** Revenue[~~ Cabinet~~]. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.

(b) If a board fails to comply with paragraph (a) of this subsection, its members shall be subject to removal from office for willful neglect of duty pursuant to KRS 156.132.

Section 592. KRS 160.6131 is amended to read as follows:

As used in KRS 160.613 to 160.617:

(1) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~].

(2) "Communications service" shall have the same meaning as provided in KRS 139.195 but does not include:

(a) Prepaid calling services;

(b) Interstate telephone service, if the interstate charge is separately itemized for each call; and

(c) If the interstate calls are not itemized, the portion of telephone charges identified and set out on the customer's bill as interstate as supported by the provider's books and records.

(3) "Gross cost" means the total cost of utility services including the cost of the tangible personal property and any services associated with obtaining the utility services regardless from whom purchased.

(4) "Gross receipts" means all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of utility services.

(5) "Utility services" means the furnishing of communications services, electric power, water, and natural, artificial, and mixed gas.

Section 593. KRS 160.627 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall, where that cabinet is not acting as such, make available to the tax collector, or to the school district, where the ***Department of*** Revenue[~~ Cabinet~~] is acting as tax collector under subsection (2) of this section, by October 1 of each year, such information as the tax collector or the school district may request concerning the state income tax liability of the school district residents. ***This***[~~Such~~] information shall be made available on a confidential basis as provided in KRS 131.190.

(2) The ***Department of*** Revenue[~~ Cabinet~~], upon request by a school district, shall act as tax collector for the school tax authorized by KRS 160.621, and the ***Department of*** Revenue[~~ Cabinet~~], where so acting, KRS 160.625 notwithstanding, may in its own discretion incorporate its tax collecting duties with those relative to collection of state individual income taxes under KRS Chapter 141, thereby making an individual's tax payment hereunder due along with his individual income tax payment and subject to law applicable to such as to time and manner of payment. Tax required to be paid under the provisions of this chapter shall be remitted together with the state income tax return. The ***Department of*** Revenue[~~ Cabinet~~], when so acting, KRS 160.500 notwithstanding, shall remit school excise taxes collected to the school districts for which it is acting as tax collector in a reasonably timely and expeditious manner.

Section 594. KRS 160.637 is amended to read as follows:

(1) "Requesting school districts" shall mean those school districts for which the ***Department of*** Revenue[~~ Cabinet~~] is requested to act as tax collector under the authority of KRS 160.627(2).

(2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the ***Department of*** Revenue[~~ Cabinet~~], for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on the basis agreed upon by the boards of education and the tax collector. The expenses shall be borne by the school districts on a basis proportionate to the revenue received by the districts.

(3) The following shall apply only when the ***Department of*** Revenue[~~ Cabinet~~] is acting as tax collector under the authority of KRS 160.627(2):

(a) When the cabinet is initially requested to be the tax collector under KRS 160.627(2), the cabinet shall estimate the costs of implementing the administration of the tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the cabinet ten percent (10%) of this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the cabinet. Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the cabinet has fully recovered the costs. The payment shall be made within thirty (30) days of notification by the cabinet.

(b) The ***Department of*** Revenue[~~ Cabinet~~] shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the cabinet in collecting the excise tax. The expenses, which shall be deducted by the ***Department of*** Revenue[~~ Cabinet~~] from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the cabinet to school districts on a basis proportionate to the number of returns processed by the ***Department of*** Revenue[~~ Cabinet~~] for each district compared to the total processed by the ***Department of*** Revenue[~~ Cabinet~~] for all districts.

(c) All funds received by the cabinet under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the cabinet for the costs described in paragraphs

(a) and (b) of this subsection. This account shall not lapse.

(d) The cabinet may retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account shall be to authorize the ***Department of*** Revenue[~~ Cabinet~~] to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580(4), and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580(5), within four (4) years of payment.

(e) KRS 160.621 notwithstanding, when the cabinet is acting as tax collector under the authority of KRS 160.627(2), the requesting school district may enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.

(f) Beginning August 1, 1982, any school district which requests the cabinet to collect taxes under the authority of KRS 160.627(2) shall inform the cabinet of this request not less than one hundred fifty (150) days prior to January 1.

(g) The cabinet shall not be required to collect taxes authorized in KRS 160.621 of an individual when the cabinet is not pursuing collection of that individual's state income taxes. The cabinet shall not be required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.

(h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. No individual's tax payment shall be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.

(i) KRS 160.510 notwithstanding, the State Auditor shall be the only party authorized to audit the ***Department of*** Revenue[~~ Cabinet~~] with respect to the performance of its duties under KRS 160.621.

Section 595. KRS 160.640 is amended to read as follows:

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be required to secure a corporate surety bond in an amount to be set by the Kentucky Board of Education. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633.

160.640 Custodian of tax funds to give bond -- Expense, how paid. (Effective July 1, 2005)

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633, except the ***Department of*** Revenue[~~ Cabinet~~], shall be required to secure a corporate surety bond in an amount to be set by the Kentucky Board of Education. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633.

Section 596. KRS 164.357 is amended to read as follows:

(1) There is established as a separate administrative body of state government the Governmental Services Center at Kentucky State University which shall be attached to the ***Personnel***[~~Finance and Administration~~] Cabinet for administrative purposes. The center shall be governed by the Governmental Services Center Authority.

(2) The authority shall consist of the president of Kentucky State University, who shall be chairman, the secretary of the Finance and Administration Cabinet, the secretary of the Personnel Cabinet, two (2) members appointed by the Governor, each of whom shall serve as ex officio voting members of the authority, and two (2) other voting members to be appointed by the chairman of the authority. Appointed members shall be citizens and residents of the Commonwealth of Kentucky. The initial term of one (1) of the members appointed by the chairman shall be for two (2) years, and the initial term of the other appointed member shall be for a term of four (4) years; thereafter, all appointments shall be for terms of four (4) years, but appointed members shall be removable at will by the chairman of the authority.

(3) The Governmental Services Center at Kentucky State University, under direction of the authority, shall be responsible for the development, coordination, content, approval, and implementation of all training, employee development, and related programs conducted for and on behalf of all program cabinets, departments, administrative bodies, and program managers of the state government. The center shall conduct, or cause to be conducted, ongoing management training programs for all program managers and supervisors within the executive branch of state government. The organizational units whose supervisors and managers received training at the center shall share the cost of the training on a pro rata basis. The center shall encourage the enrollment of state employees in academic courses and programs at Kentucky State University. If desired academic courses are not available at the university, and cannot feasibly be developed by the university, other universities and community colleges within the Commonwealth shall be utilized. The authority shall determine the appropriateness of all such programs.

(4) The authority may employ an executive director and other employees necessary to perform the functions of the center in accordance with the provisions of KRS Chapter 18A. The executive director or any staff member of the center may hold concurrently with their employment by the center, and subject to the provisions of KRS 164.360 and 164.365, faculty appointments of appropriate rank at Kentucky State University.

(5) Members of the authority who are not either state or university employees shall be reimbursed for their actual expenses in attending meetings for the authority.

Section 597. KRS 164A.703 is amended to read as follows:

(1) The fund shall be governed by an eleven (11) member board of directors. The board shall have five (5) ex officio voting members including the State Treasurer, the president of the Council on Postsecondary Education or designee, the secretary of the Finance Cabinet or designee, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] or designee, the chair of the Association of Independent Kentucky Colleges and Universities or designee, three (3) members appointed by the State Treasurer, and three (3) members appointed by the Governor. The executive director of the Higher Education Assistance Authority or designee shall serve as a nonvoting member. The gubernatorial and State Treasurer appointees shall have experience in finance, accounting, or investment management.

(2) Of the members to be appointed initially by the State Treasurer, one (1) shall be appointed for a three (3) year term, and two (2) shall be appointed for a four (4) year term; of the members to be appointed by the Governor, two (2) shall be appointed for a two (2) year term and one (1) for a three (3) year term. Thereafter, all appointments shall be for terms of four (4) years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be appointed to serve for more than two (2) successive four (4) year terms. No person holding a full-time office or position of employment with the state, any county or city, or any educational institution shall be eligible for gubernatorial appointment to the board.

(3) Members of the board shall receive no compensation but shall be reimbursed expenses incurred in the performance of their duties at the same per diem and travel rate as is paid the employees of the state.

(4) The State Treasurer shall be the chair and presiding officer of the board. The State Treasurer may appoint other officers as the board may deem advisable or necessary. A majority of the members of the board shall constitute a quorum for the transaction of the business of the fund.

(5) The initial board appointments shall be made by October 1, 2000.

Section 598. KRS 165A.340 is amended to read as follows:

(1) There is hereby established a State Board for Proprietary Education which shall be attached to the Cabinet for Finance and Administration, ***Office of Administrative Services***[~~Department for Administration~~], Division of Occupations and Professions and shall consist of eleven (11) voting members to be appointed by the Governor as follows:

    (a) Three (3) members representative of privately owned educational institutions appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;

    (b) Three (3) members representative of technical schools appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools; and

    (c) Five (5) members representative of the public at large.

(2) The term of each member shall be four (4) years or until a successor is appointed. If a vacancy occurs on the board, a new member shall be appointed to serve the remainder of the unexpired term.

(3) The director of the Division of Occupations and Professions in the Finance and Administration Cabinet shall serve as executive director of the board. Members of the board shall annually elect one (1) of their number as chairman. The board may make all rules and regulations, including the establishment of fees and other charges consistent with the provisions of this chapter, as may be necessary to carry out the provisions and purposes of this chapter.

(4) The board shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places as the board may designate and the majority of the members shall constitute a quorum.

(5) The board may sue and be sued in its own name.

(6) The members of the board shall receive one hundred dollars ($100) per day for each meeting attended and may be paid their travel and other expenses while employed upon the business of the board.

(7) The board shall administer the provisions of law pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.

(8) The board shall have the power to subpoena witnesses and school records as it deems necessary.

Section 599. KRS 171.420 is amended to read as follows:

The State Archives and Records Commission, is hereby created and shall be a seventeen (17) member body constituted as follows: The state librarian or his designee, who shall be the chairman of the commission, secretary of the Education, Arts, and Humanities Cabinet or his designee, the Auditor of Public Accounts or his designee, the Chief Justice of the Supreme Court or his designee, the director of the Legislative Research Commission or his designee, the Attorney General or his designee, the director of the Office for Policy and Management ***in the Office of the Controller*** or his designee, the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~] or her or his designee, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association, one (1) member appointed by the

Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, four (4) citizens at large, and one (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. The commission shall advise the Department for Libraries and Archives on matters relating to archives and records management. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

Section 600. KRS 175.810 is amended to read as follows:

The Transportation Cabinet shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for economic development road projects. Upon receiving such certification, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] shall cause said amount to be deposited from road fund receipts to the credit of the economic development road account, hereby created, in the transportation fund (road fund). Such taxes collected in excess of the amount required to be deposited to the economic development road account in the transportation fund (road fund) shall be deposited by the ***Department of*** Revenue[~~ Cabinet~~] to the credit of the transportation fund (road fund).

Section 601. KRS 179.720 is amended to read as follows:

(1) Upon the creation of a subdivision road district as provided in KRS 179.700 to 179.735, the trustees of such district are hereby authorized to levy a tax rate upon the property in said district, provided that said property is subject to county tax, and not exceeding ten cents ($0.10) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the maintenance of roads within the subdivision district. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The trustees of a district may contract with the county containing the district to perform maintenance on or to provide personnel, materials or equipment for maintenance to be performed upon any road in the district. The county may maintain or provide personnel, materials or equipment for the maintenance of the roads of a district, so long as the district agrees to pay the county's total cost of providing services, personnel, materials or equipment.

(3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue[~~Cabinet~~].

(4) Such taxes shall be subject to the same delinquency date, discounts, penalties and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of four percent (4%) of the amount collected by him.

Section 602. KRS 186.025 is amended to read as follows:

Effective January 1, 1981, the Transportation Cabinet shall, by April 1 of each year, provide the ***Department of*** Revenue[~~ Cabinet~~] with a listing of all owners of motor vehicles registered in Kentucky on an anniversary basis under KRS 186.051 as of the preceding January 1. ***The***[~~Such~~] listing shall be by counties and shall contain, in addition to the name of the owners, the owners' addresses, and the make, model and year of all vehicles owned by the registrants. The county clerk shall continue to provide copies of motor vehicle registration certificates on all motor vehicles not registered under the provisions of KRS 186.051.

Section 603. KRS 186.232 is amended to read as follows:

(1) The county clerk shall not transfer the registration on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.

(2) The county clerk shall not transfer the registration of any motor vehicle unless the transferee presents proof of insurance in compliance with KRS 304.39-080 and KRS 186.190.

(3) If a notarized affidavit is required and available under KRS 138.450, the county clerk shall not transfer the registration of a motor vehicle unless the notarized affidavit attesting to the total and actual consideration paid or to be paid for the motor vehicle is presented to the clerk at the time of the transfer. If a notarized affidavit is required but is not available, the county clerk shall contact the ***Department of*** Revenue[~~ Cabinet~~] to determine the "retail price" of the vehicle and any taxes due prior to transferring the vehicle.

Section 604. KRS 186.655 is amended to read as follows:

(1) Before any owner or operator of a trailer, semitrailer, or recreational vehicle may operate upon the highways, the owner shall apply for registration to the county clerk of the county in which he resides or in which the vehicles are principally operated. The application shall be retained by the clerk and shall be accompanied by:

(a) A manufacturer's certificate of origin, if the application is for the registration of a new trailer, semitrailer, or recreational vehicle;

(b) The owner's registration receipt, if the trailer, semitrailer, or recreational vehicle was last registered in this state;

(c) A bill of sale and the previous registration receipt, if last registered in another state that does not require the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;

(d) A certificate of title, if last registered in another state that requires the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;

(e) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle assembled or constructed for his personal use on the highways; or

(f) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle where the bill of sale for the vehicle has been lost, destroyed, or stolen.

(2) The affidavit required in paragraph (e) of subsection (1) of this section shall contain the owner's name, address, date, brief description, and a statement that the trailer was constructed by the owner for use on the highways and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(3) The affidavit required in paragraph (f) of subsection (1) of this section shall contain the owner's name, address, date, make, year made, serial or identification number, name of the person from whom purchased, date of purchase, a statement that the person making the affidavit is the sole owner, the circumstances under which the bill of sale was lost, destroyed, or stolen, and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(4) After initial registration of his vehicles in this state, the owner shall register his trailer, semitrailer, or recreational vehicle on or before April 1 of each year. Registration with the clerk shall be deemed to be registration with the cabinet.

(5) A county clerk or other officer shall not issue license tags to the owner of a recreational vehicle when it is offered for registration in this state, unless the owner presents a tax receipt from the seller verifying that the Kentucky sales tax has been paid. If the owner is unable to present evidence of payment of tax, he shall furnish to the clerk a bill of sale indicating the purchase price of the recreational vehicle on which price the sales tax shall be assessed. If he cannot furnish a bill of sale indicating the purchase price, the clerk shall assess the value in accordance with information prescribed by the ***Department of*** [~~Revenue~~] Cabinet. The clerk shall collect the tax, deduct a fee of five percent (5%) of the amount collected and remit the balance to the ***Department of*** [~~Revenue~~] Cabinet.

Section 605. KRS 186A.015 is amended to read as follows:

(1) Except as provided for in KRS 235.050, the titling and registration of motorboats as defined in KRS 235.010 shall be administered through the automated motor vehicle and trailer registration and titling system developed and implemented under the provisions of KRS 186A.010.

(2) The Transportation Cabinet, the Natural Resources and Environmental Protection Cabinet, the ***Department of*** Revenue[~~Cabinet~~], and all other agencies of state government affected by the system are hereby directed to cooperate in the orderly implementation of this system.

(3) The Transportation Cabinet, as far as practicable, and not inconsistent with the provisions of KRS Chapter 235, shall promulgate administrative regulations requiring the procedures for boat titling and registration to be consistent with motor vehicle titling and registration. These administrative regulations may pertain but shall not be limited to the following:

(a) Conditions and characteristics of certificate of title forms;
(b) Comparison and identification of hull identification numbers;
(c) Application for title or registration;
(d) Processing of title applications;
(e) Form of certificate of title;
(f) Notation of security interests or title;
(g) Title lien statements;
(h) Transfer of boat ownership;
(i) Duplicate certificate of title or registration; and
(j) Salvage titles.

Section 606. KRS 186A.025 is amended to read as follows:

(1) (a) The Finance and Administration Cabinet shall have full responsibility and authority for day-to-day administration of the automated system described by this chapter; and

(b) May request the assistance of any cabinet or department of state government in carrying out its responsibilities under this chapter.

(2) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the Department of State Police, and to other law enforcement agencies state and nationwide, regarding vehicles registered and, when required, titled in this state.

Section 607. KRS 186A.030 is amended to read as follows:

In order to improve collection of personal property (ad valorem) taxes associated with motor vehicles and trailers, the Department of Vehicle Regulation, in cooperation with the ***Department of*** Revenue[~~ Cabinet~~], shall:

(1) Ensure that the automated system provided by this chapter is capable of properly assigning a value for each vehicle registered in a county, utilizing a value reference manual in machine readable form approved by the ***Department of*** Revenue[~~ Cabinet~~], and a manually entered value for vehicles not shown in such "manual."

(2) Promptly study the feasibility of computing personal property (ad valorem) taxes associated with motor vehicles or trailers, and producing tax bills or notices of taxes due in such regard, and if shown feasible to its satisfaction, implement such capability, or any part thereof, as expeditiously as practicable.

(3) Ensure that the automated system is capable of receiving the record of a lien for unpaid personal property (ad valorem) taxes associated with an owner of a motor vehicle or trailer. No motor vehicle dealer shall be responsible for the payment of a tax lien on a motor vehicle which is received as trade-in or otherwise obtained by the dealer.

Section 608. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky pursuant to KRS 304.39-087 and 304.39-085. The department shall provide appropriate insurance information to the ***Commonwealth Office of***[~~Governor's Office for~~] Technology for inclusion in the AVIS database to assist in identifying uninsured motor vehicles.

(2) (a) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, or on and after January 1, 2006, if the vehicle identification number (VIN) of a personal motor vehicle does not appear in the database created by KRS 304.39-087 for two (2) consecutive reporting months, the department shall immediately make a determination as to the notification of the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:

1. The person presents proof of insurance to the county clerk and pays the reinstatement fee required by KRS 186.180;

2. The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

3. The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

4. The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(b) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by paragraph (a) of this subsection. The notice that the department gives to the county attorney in accordance with paragraph (a) of this subsection shall include a certified copy of the person's driving record which shall include:

1. The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

2. A dated notice that the department sent to the person requiring the person to present proof of insurance to the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with paragraph (a) of this subsection.

(c) The certified copies sent by the department described in paragraph (b) of this subsection, shall be prima facie evidence of a violation of KRS 304.39-080.

(d) If the insured provides proof of insurance to the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

(3) (a) In developing the mechanism to electronically transfer information pursuant to KRS 304.39-087, the commissioner of the Department of Vehicle Regulation shall consult with the commissioner of the Department of Insurance and insurers of personal motor vehicles to adopt a standardized system of organizing, recording, and transferring the information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators.

(b) Notwithstanding any other provision of law, information obtained by the department pursuant to KRS 304.39-087 shall not be subject to the Kentucky Open Records Act, KRS 61.872 to 61.884, and shall not be disclosed, used, sold, accessed, utilized in any manner, or released by the department to any person, corporation, or state and local agency, except in response to a specific individual request for the information authorized pursuant to the federal Driver's Privacy Protection Act, 18 U.S.C. secs. 2721 et seq. The department shall institute measures to ensure that only authorized persons are permitted to access the information for the purposes specified by this section. Persons who knowingly release or disclose information from the database created by KRS 304.39-087 for a purpose other than those described as authorized by this section or to a person not entitled to receive it shall be guilty of a Class A misdemeanor for each release or disclosure.

Section 609. KRS 186A.060 is amended to read as follows:

The Department of Vehicle Regulation is directed to develop, in cooperation with county clerks, auto dealers, and the ***Department of*** Revenue[~~ Cabinet~~], and Departments of Insurance and State Police, the forms required to record all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The Department of Vehicle Regulation shall make every effort to minimize and reduce the amount of paperwork required to apply for, or transfer, a vehicle title. When possible, the title document itself shall be used as the primary form used to effect a transfer of vehicle ownership. When no in-state title exists, then forms shall be designed by the department that require only the appropriate and essential information to effect the application for title. The department shall constantly review the information needs of government agencies and other organizations with the goal of reducing, or eliminating, unnecessary documentation. Information being sought for application for title relevant to, but not limited to, vehicle identification, owner, buyer, usage tax, county clerk or inspector shall be set forth by the cabinet in such a way as to promote flexibility in reaching this goal, except that an applicant for a motor vehicle title shall not be required to provide his or her social security number as part of the application process. The use of an electronic medium shall be employed so that forms can be printed by the automated system. Existing statutory language in this chapter and KRS Chapter 186 pertaining to application, signature, forms, or application transfer record may be construed to be electronic in nature at the discretion of the cabinet as provided for by administrative regulation. Any person who knowingly enters, or attests to the entry of, false or erroneous information in pursuit of a certificate of title shall be guilty of forgery in the second degree.

Section 610. KRS 186A.285 is amended to read as follows:

(1) No person shall, without prior specific written approval of the commissioner of the Department of Vehicle Regulation and the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~], connect with the automated vehicle registration and titling system, directly or indirectly, by wire, electronic, electromagnetic induction, systemic, or any other means, any device, system or apparatus capable of putting information or electronic signals into, or receiving information or electronic signals from, or blocking, diverting, or altering transmission of data or signals within, the automated vehicle registration and titling system, its components, and its communications network.

(2) This section does not apply to or prohibit connection of devices or systems to the automated vehicle registration and titling system by persons who are acting in accordance with a contract or agreement with the Commonwealth of Kentucky, which in addition to any other required approval, has been approved in writing by the commissioner of the Department of Vehicle Regulation and the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~].

Section 611. KRS 186A.290 is amended to read as follows:

(1) Regardless of other provisions of the statutes, the county clerk may omit sending duplicates of each certificate of title and registration, or certificate of registration he issues, to the Transportation Cabinet and ***Department of*** Revenue[~~ Cabinet~~], and the property valuation administrator, and may omit the production and filing of one of the copies formerly known as either county clerk's alpha or his numeric copy, when it is determined by the agencies indicated that their need for "duplicates" of each certificate or "receipt" is obviated by the automated system.

(2) The Department of Vehicle Regulation and the ***Department of*** Revenue[~~ Cabinet~~] shall, as agreed between them, provide appropriate system support or computerized listings on magnetic tape or disc, printouts, or system access, to fulfill the information needs formerly requiring duplicates of each certificate or receipt.

Section 612. KRS 186A.295 is amended to read as follows:

(1) (a) Any person or entity having a motor vehicle or trailer that has been destroyed, to the extent that its repair cannot be obtained through usual commercial repair services, at a cost less than its retail value as established from a value manual approved by the ***Department of*** Revenue[~~ Cabinet~~], or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by the manufacturer have been removed, or which he removes, shall surrender the certificate of title for such vehicle for which he has a certificate of title in his or another name, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the

surrendered title to Frankfort with instructions for canceling the title.

(b) Any person or entity engaged in the sale of used motor vehicle or trailer parts, or the recycling or salvage of them, shall surrender the certificate of title for any vehicle in his possession, and for which he has a certificate of title, whether in his or another name, if such vehicle is destroyed within the meaning of paragraph (a) of this subsection, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by a manufacturer have been removed, or which he removes, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for canceling the title.

(c) The surrender of the certificate of title pursuant to this section shall be made within ten (10) working days, next succeeding the day when such vehicle was received, destroyed, or next succeeding the day during which such second part was removed.

(2) Each county clerk shall receive without charge, a certificate surrendered in accordance with this section, cancel it, and remit it to the Department of Vehicle Regulation, and take any other action related to it, as required by the Department of Vehicle Regulation.

Section 613. KRS 190.040 is amended to read as follows:

(1) A license may be denied, suspended, or revoked on the following grounds:

(a) Proof of financial or moral unfitness of applicant;

(b) Material misstatement in application for license;

(c) Filing a materially false or fraudulent tax return as certified by the ***Department of*** Revenue[~~ Cabinet~~];

(d) Willful failure to comply with any provision of this chapter or any administrative regulation promulgated under this chapter;

(e) Willfully defrauding any retail buyer to the buyer's damage;

(f) Willful failure to perform any written agreement with any buyer;

(g) Failure or refusal to furnish and keep in force any bond required;

(h) Having made a fraudulent sale, transaction, or repossession;

(i) False or misleading advertising;

(j) Fraudulent misrepresentation, circumvention, or concealment through subterfuge or device of any of the material particulars or the nature of them required to be stated or furnished to the retail buyer;

(k) Employment of fraudulent devices, methods, or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of goods;

(l) Having violated any law relating to the sale, distribution, or financing of motor vehicles;

(m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of the motor vehicle manufacturer or factory branch, who has induced, coerced, or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle, vehicles, parts, accessories, or any other commodities that shall not have been ordered by the dealer;

(n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has attempted to induce or coerce, or has induced or coerced, any automobile dealer to enter into any agreement with a manufacturer, factory branch, or representative, or to do any other act unfair to the dealer, by threatening to cancel any franchise existing between a manufacturer, factory branch, or representative and the dealer;

(o) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of the dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;

(p) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, or wholesaler who makes, attempts to make, or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. This section shall not prevent any manufacturer from offering discounts or rebates on any motor vehicle to any of its employees; or

(q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch, or distributor authorizing the sale of the new motor vehicle being advertised.

(2) The licensor may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for denial. Upon request by the applicant whose license has been denied, the licensor shall set the time and place of hearing a review of denial, to be conducted in accordance with KRS Chapter 13B.

(3) A license shall not be suspended or revoked except after a hearing conducted in accordance with KRS Chapter 13B.

(4) The commission may inspect the pertinent books, letters, records, and contracts of a licensee.

(5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if the licensee approved of or had knowledge of the acts and after approval or knowledge retained the benefit, proceeds, profits, or advantages accruing from the acts.

(6) Any licensee or other person in interest who is dissatisfied with a final order of the commission may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS Chapter 13B.

Section 614. KRS 194B.102 is amended to read as follows:

(1) There is hereby created the "Statewide Strategic Planning Committee for Children in Placement" which is administratively attached to the Department for Community Based Services. The committee shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the secretary of the Cabinet for Families and Children or the secretary's designee, the commissioner of the Department for Public Health, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner for the Department for Medicaid Services, the commissioner of the Department for Community Based Services, the commissioner of the Department of Juvenile Justice, the commissioner of the Department of Education, the executive director of the Administrative Office of the Courts, or their designees; and

(b) One (1) foster parent selected by the statewide organization for foster parents, one (1) District Judge selected by the Chief Justice of the Kentucky Supreme Court, one (1) parent of a child in placement at the time of appointment to be selected by the secretary of the Cabinet for Families and Children, one (1) youth in placement at the time of the appointment to be selected by the secretary of the Cabinet for Families and Children, and one (1) private child care provider selected by the statewide organization for private child care providers. These members shall serve a term of two (2) years, and may be reappointed.

(2) The Statewide Strategic Planning Committee for Children in Placement shall, by July 1, 1999, develop a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. The plan shall be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislative Research Commission on or before July 1, 1999, and each July 1 thereafter.

(3) The strategic plan shall, at a minimum, include:

(a) A mission statement;

(b) Measurable goals;

(c) Principles;

(d) Strategies and objectives; and

(e) Benchmarks.

(4) The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. Strategic plan updates shall include data and statistical information comparing plan benchmarks to actual services and care provided.

(5) The Statewide Strategic Planning Committee for Children in Placement shall, in consultation with the commissioner and the statewide placement coordinator as provided for in KRS 199.801, establish a statewide facilities and services plan that identifies the location of existing facilities and services for children in placement, identifies unmet needs, and develops strategies to meet the needs. The planning horizon shall be five (5) years. The plan shall be updated on an annual basis. The plan shall be used to guide, direct, and, if necessary, restrict the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of placement alternatives.

(6) The Statewide Strategic Planning Committee for Children in Placement may, through the promulgation of administrative regulations, establish a process that results in the review and approval or denial of the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of any facilities and services for children in placement in accordance with the statewide facilities and services plan. Any process established shall include adequate due process rights for individuals and entities seeking to develop new services, construct new facilities, or expand existing facilities, and shall require the involvement of local communities and other resource providers in those communities.

(7) As a part of the statewide strategic plan, and in consultation with the ***Commonwealth Office of***[~~Governor's Office for~~] Technology, the Statewide Strategic Planning Committee for Children in Placement shall plan for the development or integration of information systems that will allow information to be shared across agencies and entities, so that relevant data will follow a child through the system regardless of the entity or agency that is responsible for the child. The data produced shall be used to establish and monitor the benchmarks required by subsection (3) of this section. The data system shall, at a minimum, produce the following information on a monthly basis:

(a) Number of placements per child;

(b) Reasons for placement disruptions;

(c) Length of time between removal and establishment of permanency;

(d) Reabuse or reoffense rates;

(e) Fatality rates;

(f) Injury and hospitalization rates;

(g) Health care provision rates;

(h) Educational achievement rates;

(i) Multiple placement rates;

(j) Sibling placement rates;

(k) Ethnicity matching rates;

(l) Family maintenance and preservation rate; and

(m) Adoption disruption rates.

(8) The Statewide Strategic Planning Committee for Children in Placement shall publish an annual report no later than December 1 of each year that includes, but is not limited to, the information outlined in subsection (7) of this section.

Section 615. KRS 197.120 is amended to read as follows:

(1) The Department of Corrections may enter into contracts with any other state agency for the use and employment of prisoners who may be eligible for the assignments. The contracts shall specifically set forth the compensation to be paid to the Department of Corrections for the use and employment of the prisoners, for the payment of the expenses of transporting, guarding, housing, disciplining, and maintaining the prisoners while so employed. The amount to be paid shall be certified by the contracting parties to the Finance and Administration Cabinet at the end of each month and shall be charged to the appropriation of the agency liable for the payment thereof and credited to the budget of the department to be disbursed and expended as it directs. Any contract may provide for a fixed per diem compensation to be paid to the department for each day's work performed by the prisoner and the department shall pay, out of the per diem compensation, the expenses of transporting, guarding, disciplining, housing, and maintaining prisoners as may be provided in the contracts.

(2) The Department of Corrections shall not enter into any contract with the ***Department of*** Revenue[~~ Cabinet~~] for the use or employment of prisoners in any capacity that allows prisoners access to taxpayer information, including, but not limited to, tax returns, informational reporting returns, social security numbers, telephone numbers, or addresses.

Section 616. KRS 197.210 is amended to read as follows:

(1) (a) On and after June 17, 1954, all offices, departments, institutions, agencies, and all political subdivisions which are supported in whole or in part by the Commonwealth shall purchase, when economically feasible, from the department all articles or products required which are produced or manufactured by prison labor, as provided by KRS 197.200 to 197.250. No article or product shall be purchased by any office, department, institution, or agency, from any source except as specified in this subsection.

(b) Exceptions may be made in any case where, in the opinion of the Finance and Administration Cabinet, the articles or products produced or manufactured do not meet the reasonable requirements of the offices, departments, institutions, agencies, or where the requisition cannot be reasonably complied with because of an insufficient supply of the articles or products required. However, no office, department, institution, or agency shall be allowed to evade the intent and meaning of KRS 197.200 to 197.250 by slight variations from standards adopted by the ***Office***[~~Division~~] of Material and Procurement Services ***within the Office of the Controller***, when the articles or products produced or manufactured by the department in accordance with the standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

(2) All purchases under KRS 197.200 to 197.250 shall be made through the Finance and Administration Cabinet upon requisition by the proper authority of the office, department, institution, agency, or political subdivision of the Commonwealth.

Section 617. KRS 198A.030 is amended to read as follows:

(1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the Kentucky Housing Corporation.

(2) The Kentucky Housing Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.

(3) The corporation shall be governed by a board of directors, consisting of fourteen (14) members, six (6) of whom shall be the Lieutenant Governor, the secretary of the Finance and Administration Cabinet, the commissioner of the Department for Local Government, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~], the Attorney General, and the secretary of the Cabinet for Economic Development, or their duly appointed designees, as public directors, and eight (8) private directors who shall be appointed by the Governor, subject to confirmation by the Senate as provided by KRS

11.160, as follows:

(a) One (1) private director representing the interests of financial lending institutions located within the Commonwealth;

(b) One (1) private director representing the interests of the manufactured housing industry within the Commonwealth;

(c) One (1) private director representing the interests of real estate practitioners licensed by the Kentucky Real Estate Commission;

(d) One (1) private director representing the interests of the homeless population within the Commonwealth;

(e) One (1) private director representing the interests of local government;

(f) One (1) private director representing the interests of the home construction industry in the Commonwealth;

(g) One (1) private director representing the interests of consumers in the Commonwealth; and

(h) One (1) private director representing the interests of the Kentucky State Building Trades Council.

(4) Private directors appointed by the Governor may include previous members of the board, and members may be reappointed for successive terms. All appointments shall be for four (4) years, and the appointees shall serve until a qualified successor is appointed.

(5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold office during the remainder of the term. A vacancy shall be filled in accordance with the requirement and procedures for appointments.

(6) The Governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for the vacancy as provided in this section.

(7) The Governor shall designate a director of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a director of the corporation or a date six (6) months after the expiration of the then current term of the Governor designating the chairman.

(8) The board of directors shall annually elect one (1) of its members as vice chairman. The board of directors shall also elect or appoint, and prescribe the duties of, other officers the board of directors deems necessary or advisable, including an executive director and a secretary, and the board of directors shall fix the compensation of the officers.

(9) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that copies are true copies, and all persons dealing with the corporation may rely upon the certificates.

(10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. A majority shall be determined by excluding any existing vacancies from the total number of directors.

(11) Action shall be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum shall exist called upon three (3) days' written notice to each director or upon the concurrence of at least eight (8) directors.

(12) Each private director shall be entitled to a fee of one hundred dollars ($100) for attendance at each meeting of the board of directors or duly called committee meeting of the board.

Section 618. KRS 205.769 is amended to read as follows:

(1) In cases deemed appropriate pursuant to established guidelines, the cabinet shall refer for federal income tax refund offset and state income tax refund offset verified amounts which are owed for overdue child support and maintenance amounts that are included in the same support order as child support. The cabinet shall refer for federal income tax refund offset and state income tax refund offset verified amounts which are owed for medical support, when the medical support arrearage accrued is based on a medical support order for a specified dollar amount.

(2) In nonpublic assistance cases, the custodial parent shall be notified in advance if any offset amount will be first used to satisfy any unreimbursed public assistance payments which have been provided to the family.

(3) Written notice in advance shall be provided the obligor of the referral for state income tax refund offset, together with the opportunity to contest the referral pursuant to procedures which are in compliance with the state's procedural due process requirements.

(4) If the offset amount is found to be in error or to exceed the amount of overdue support, the cabinet shall promptly refund the excess amount pursuant to established procedures.

(5) The cabinet may charge a reasonable fee to cover the cost of collecting overdue support using the state tax refund offset.

(6) The ***Department of*** Revenue[~~ Cabinet~~] shall notify the cabinet of the parent's home address and Social Security number or numbers. The cabinet shall provide this information to any other state involved in enforcing the support order.

(7) The cabinet has the unfettered right to intercept federal income tax refunds and state income tax refunds, pursuant to 45 C.F.R. 303.72 and KRS 131.560 to 131.595, to satisfy all child support, maintenance, and medical support arrearages due the cabinet or its assignee.

Section 619. KRS 205.778 is amended to read as follows:

(1) When the cabinet determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a noncustodial parent who owes past-due support, a lien or levy shall, subject to the provision of subsection (3) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained. The cabinet shall provide a notice of the match, the lien or levy arising therefrom, and the action to be taken to block or encumber the account with the lien or levy for child support payment to the individual identified and the financial institution holding the account. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account based on a match until it is served with a notice of lien or order to withhold and deliver.

(2) The cabinet shall provide notice to the individual subject to a child support lien or levy on assets in an account held by a financial institution by sending them a notice of the lien or levy to withhold and deliver within two (2) business days of the date that notice is sent to the financial institution.

(3) A financial institution ordered to block or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is blocked or encumbered.

(4) Any levy issued on an identified account by the Cabinet for Families and Children for past-due child support shall have first priority over any other lien or levy issued by the ***Department of*** Revenue[~~ Cabinet~~] or any other agency, corporation, or association.

Section 620. KRS 209.160 is amended to read as follows:

There is hereby created a trust and agency account in the State Treasury to be known as the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars ($10) from each twenty-four dollars ($24) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the ***Department of*** Revenue[~~ Cabinet~~]. The Cabinet for Families and Children shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.

Section 621. KRS 211.390 is amended to read as follows:

(1) "Fluidized bed energy production facility" shall mean a fluidized bed combustion unit, installed in a plant facility located in this state, which is fueled by Kentucky coal and which employs fluidized bed combustion technology, installed on or after August 1, 1986, to burn said coal for the purpose of producing thermal, mechanical or electrical energy. The energy produced through the employment of the fluidized bed combustion technology must constitute the major energy source for the primary operations of the plant facility.

(2) "Fluidized bed combustion technology tax exemption certificate" shall mean that certificate issued by the ***Department of*** Revenue[~~ Cabinet~~] pursuant to KRS 211.392.

Section 622. KRS 211.392 is amended to read as follows:

(1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the ***Department of*** Revenue[~~ Cabinet~~] in the manner and form prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and shall contain plans and specifications of the fluidized bed combustion unit including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the ***Department of*** Revenue[~~ Cabinet~~] for the proper administration of this section. If the ***Department of*** Revenue[~~ Cabinet~~] finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before the denial, revocation, or modification of a fluidized bed combustion technology tax exemption certificate, the ***Department of*** Revenue[~~ Cabinet~~] shall give the applicant written notice and shall afford the applicant an opportunity for a conference. The conference shall take place within sixty (60) days following notification. The ***Department of*** Revenue[~~ Cabinet~~] shall on its own initiative revoke the certificate when any of the following appears:

 (a) The certificate was obtained by fraud or misrepresentation;

 (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or

 (c) The fluidized combustion unit to which the certificate relates has ceased to be the major energy source for the primary operations of the plant facility.

(3) If the circumstances so require, the ***Department of*** Revenue[~~ Cabinet~~], in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the ***Department of*** Revenue[~~ Cabinet~~] revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant. Notice of an order of the ***Department of*** Revenue[~~ Cabinet~~] denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder.

(6) The applicant or holder of the certificate aggrieved by the refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the ***Department of*** Revenue[~~ Cabinet~~] to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the ***Department of*** Revenue[~~ Cabinet~~].

(8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the ***Department of*** Revenue[~~ Cabinet~~].

(9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt the facilities from taxes outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 623. KRS 218A.202 is amended to read as follows:

(1) The Cabinet for Health Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy.

(2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.

(3) Every dispenser within the Commonwealth or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy shall report to the Cabinet for Health Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:

  (a) A drug administered directly to a patient; or

  (b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.

(4) Data for each controlled substance that is dispensed shall include but not be limited to the following:

  (a) Patient identifier;

  (b) Drug dispensed;

  (c) Date of dispensing;

  (d) Quantity dispensed;

  (e) Prescriber; and

  (f) Dispenser.

(5) The data shall be provided in the electronic format specified by the Cabinet for Health Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.

(6) The Cabinet for Health Services shall be authorized to provide data to:

  (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

  (b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

  (c) A state-operated Medicaid program;

  (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;

  (e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;

  (f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical

Licensure, for any physician who is:

1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing practices;
2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or
3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or

(g) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.

(7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care physician.

(8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction, except that:

(a) A peace officer specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with other peace officers specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and

(b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in paragraph (a) of subsection (6) of this section, or with a law enforcement officer designated in paragraph (b) of subsection (6) of this section; and

(c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(9) The Cabinet for Health Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(11) Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.

(12) Knowing disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony.

(13) The ***Commonwealth Office of***~~[Governor's Office for]~~ Technology, in consultation with the Cabinet for Health Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:

(a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and

(b) Study the use of an interactive system that includes a relational data base with query capability.

(14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.

(15) The Cabinet for Health Services may limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.

(16) (a) The Cabinet for Health Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(c) The cabinet shall work with the Justice Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

Section 624. KRS 224.01-310 is amended to read as follows:

(1) Application for a pollution control tax exemption certificate shall be filed with the ***Department of*** Revenue[~~Cabinet~~] in such manner and in such form as may be prescribed by regulations issued by the ***Department of*** Revenue[~~Cabinet~~] and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of air, noise, waste or water pollution control and any additional information deemed necessary by the ***Department of*** Revenue[~~Cabinet~~] for the proper administration of Acts 1974, Chapter 137. The cabinet shall provide technical assistance and factual information as requested in writing by the ***Department of*** Revenue[~~Cabinet~~]. If the ***Department of*** Revenue[~~Cabinet~~] finds that the facility qualifies as a pollution control facility as defined in KRS 224.01-300(1), it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of the making of the application for such certificate.

(2) Before issuing a pollution control tax exemption certificate, the ***Department of*** Revenue[~~Cabinet~~] shall give notice in writing by mail to the secretary of the cabinet, and shall afford to the applicant and to the secretary of the cabinet an opportunity for a hearing. On like notice and opportunity for a hearing, the ***Department of*** Revenue[~~Cabinet~~] shall on its own initiative revoke such certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the pollution control facilities;

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.

(3) Provided, however, that where the circumstances so require, the ***Department of*** Revenue[~~Cabinet~~] in lieu of revoking such certificate may modify the same.

(4) On the mailing of notice of the action of the ***Department of*** Revenue[~~Cabinet~~] revoking or modifying a certificate as provided in subsection (5) of this section, such certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A pollution control tax exemption certificate, when issued, shall be sent by certified mail to the applicant and notice of such issuance in the form of certified copies thereof shall be sent to the secretary of the cabinet. Notice of an order of the ***Department of*** Revenue[~~Cabinet~~] denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder thereof and shall be sent to the secretary of the cabinet. The applicant or holder and the secretary of the cabinet are deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax exemption certificate may appeal from the final ruling of the ***Department of*** Revenue[~~Cabinet~~] to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a pollution control facility, not involving a different location or use, the holder of a pollution control tax exemption certificate for such facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on such facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the facility or the date of transfer of the certificate, whichever is earlier. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the cabinet and to the ***Department of*** Revenue[~~Cabinet~~].

(8) In the event a pollution control facility for which an exemption certificate is held ceases to be used for the primary purpose of pollution control or is used for a different purpose than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the cabinet and to the ***Department of*** Revenue[~~Cabinet~~].

Section 625. KRS 224.50-868 is amended to read as follows:

(1) Until July 31, 2006, a person purchasing a new motor vehicle tire in Kentucky shall pay to the retailer a one dollar ($1) fee at the time of the purchase of that tire. A new tire is a tire that has never been placed on a motor vehicle wheel rim, but it is not a tire placed on a motor vehicle prior to its original retail sale or a recapped tire. The term "motor vehicle" as used in this section shall mean "motor vehicle" as defined in KRS 138.450. The fee shall not be subject to the Kentucky sales tax.

(2) When a person purchases a new motor vehicle tire in Kentucky to replace another tire, the tire that is replaced becomes a waste tire subject to the waste tire program. The person purchasing the new motor vehicle tire shall either offer the retailer that waste tire or meet the following requirements:

(a) Dispose of the waste tire in accordance with KRS 224.50-856(1);

(b) Deliver the waste tire to a person registered in accordance with the waste tire program; or

(c) Reuse the waste tire for its original intended purpose or an agricultural purpose.

(3) A retailer shall report to the ***Department of*** Revenue[~~ Cabinet~~] on or before the twentieth day of each month the number of new motor vehicle tires sold during the preceding month and the number of waste tires received from customers that month. The report shall be filed on forms and contain information as the ***Department of*** Revenue[~~ Cabinet~~] may require. The retailer shall remit with the report ninety-five percent (95%) of the fees collected for the preceding month and may retain a five percent (5%) handling fee.

(4) A retailer shall:

(a) Accept from the purchaser of a new tire, if offered, for each new motor vehicle tire sold, a waste tire of similar size and type; and

(b) Post notice at the place where retail sales are made that state law requires the retailer to accept, if offered, a waste tire for each new motor vehicle tire sold and that a person purchasing a new motor vehicle tire to replace another tire shall comply with subsection (2) of this section. The notice shall also include the following wording: "State law requires a new tire buyer to pay one dollar ($1) for each new tire purchased. The money is collected and used by the state to oversee the management of waste tires, including cleaning up abandoned waste tire piles and preventing illegal dumping of waste tires."

(5) A retailer shall comply with the requirements of the recordkeeping system for waste tires established by KRS 224.50-874.

(6) A retailer shall transfer waste tires only to a person who presents a letter from the cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid waste disposal facility permit issued by the cabinet, unless the retailer is delivering the waste tires to a destination outside Kentucky and the waste tires will remain in the retailer's possession until they reach that destination.

Section 626. KRS 224.50-870 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall transfer monthly fees collected pursuant to KRS 224.50-868 to the State Treasury, for deposit into the waste tire trust fund established by KRS 224.50-880. All assessment and collection powers conveyed to the ***Department of*** Revenue[~~ Cabinet~~] for the assessment and collection of taxes shall apply to the assessment and collection of the fees. The ***Department of*** Revenue[~~ Cabinet~~] shall be reimbursed from the waste tire trust fund for its costs incurred in assessing and collecting the fees, with the reimbursement not to exceed fifty thousand dollars ($50,000) per year.

Section 627. KRS 224.50-880 is amended to read as follows:

(1) A waste tire trust fund is established in the state treasury. The fund shall be used by the cabinet for the following purposes:

(a) Properly managing waste tires;

(b) Paying the cabinet's costs in implementing the waste tire program to include costs associated with any waste tire amnesty program established by the cabinet that permits waste tires to be turned in without incurring fees, charges, or penalties;

(c) Paying the ***Department of Revenue's***[~~Revenue Cabinet's~~] costs of assessing and collecting the fee established by KRS 224.50-868;

(d) Entering into the agreements described in KRS 224.50-876; and

(e) Awarding the grants described in KRS 224.50-878.

(2) All interest earned on money in the fund shall be credited to the fund.

(3) Money unexpended at the end of a fiscal year shall not lapse to the general fund.

(4) Any money remaining in the waste tire trust fund established by KRS 224.50-820 shall be transferred to the fund established by this section.

Section 628. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the ***Department of*** Revenue[~~ Cabinet~~] at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at one and four-tenths cent ($0.014) for each gallon. Four-tenths of a cent ($0.004) per gallon shall be deposited in the financial responsibility account and one cent ($0.01) shall be deposited in the petroleum storage tank account.

(5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts

necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.

(6) All provisions of law related to the ***Department of Revenue's***[~~Revenue Cabinet's~~] administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the ***Department of*** Revenue[~~ Cabinet~~] by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The ***Department of*** Revenue[~~ Cabinet~~] shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

(8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606, 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142, and this section to the contrary, the small operator assistance account and small operator tank removal account established under KRS 224.60-130 shall continue in effect until July 15, 2008, and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

Section 629. KRS 229.151 is amended to read as follows:

(1) There is hereby established the Kentucky Athletic Commission which shall consist of seven (7) members, appointed by the Governor, with initial appointments for two (2) members for terms of four (4) years, two (2) members for terms of three (3) years, two (2) members for terms of two (2) years, and one (1) member for a term of one (1) year, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms expiring July 14, 1999, shall serve until February 14, 2000; two (2) members appointed to fill the terms expiring July 14, 2000, shall serve until February 14, 2001; one (1) member appointed to fill the term expiring July 14, 2001, shall serve until February 14, 2002; two (2) members appointed to fill the terms expiring July 14, 2002, shall serve until February 14, 2003; and subsequent appointments shall be for four (4) year terms ending on February 14. Thereafter, members shall be appointed by the Governor for staggered terms of four (4) years. At least one (1) member shall have a background in the professional boxing or wrestling industry. At least one (1) member shall be a licensed physician. The ***division***[~~executive~~] director of the Division of Occupations and Professions shall serve on the commission in an ex officio capacity. One (1) member shall be designated by the Governor as chairman and one (1) member shall be elected by the commission as vice chairman, who shall have authority to act as chairman in the event of the chairman's absence or inability to act. The chairman, vice chairman, other members of the commission, and those persons referred to in KRS 229.161, shall receive one hundred dollars ($100) per day for each meeting attended and shall be paid their actual and necessary traveling and other expenses incurred by them in the performance of their official duties. The commission shall hold one (1) regular meeting every three (3) months. Four (4) members of the commission shall constitute a quorum to conduct business.

(2) The board shall be placed for organizational purposes under the Division of Occupations and Professions ***within the Office of the Controller*** which shall provide administrative and secretarial services.

Section 630. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct horse racing at a horse race meeting within the Commonwealth of Kentucky or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year shall first apply to the authority for a license to do so. The application shall be filed at the authority's general office on or before October 1 of the preceding year with respect to applications to conduct live horse race meetings, and with respect to intertrack wagering dates, and on forms prescribed by the authority. The application shall include the following information:

(a) The full name and address of the person making application;

(b) The location of the place, track, or enclosure where the applicant proposes to conduct horse racing meetings;

(c) The dates on which the applicant intends to conduct horse racing, which shall be successive days unless authorized by the authority;

(d) The proposed hours of each racing day and the number of races to be conducted;

(e) The names and addresses of all principals associated with the applicant or licensee;

(f) The type of organizational structure under which the applicant operates, i.e., partnership, trust, association, limited liability company, or corporation, and the address of the principal place of business of the organization;

(g) Any criminal activities in any jurisdiction for which any individual listed under paragraphs (a) and (e) has been arrested or indicted and the disposition of the charges, and any current or on-going criminal investigation of which any of these individuals is the subject; and

(h) Any other information that the authority by administrative regulation deems relevant and necessary to determine the fitness of the applicant to receive a license, including fingerprints of any individual listed under paragraphs (a) and (e), if necessary for proper identification of the individual or a determination of suitability to be associated with a licensed racing association.

(2) An application for license shall be accompanied by the following documents:

(a) For a new license applicant, a financial statement prepared and attested to by a certified public accountant in accordance with generally accepted accounting principles, showing the following:

1. The net worth of the applicant;

2. Any debts or financial obligations owed by the applicant and the persons to whom owed; and

3. The proposed or current financing structure for the operation and the sources of financing.

(b) For a license renewal applicant, an audited financial statement for the prior year;

(c) A copy of the applicant's federal and state tax return for the previous year. Tax returns submitted in accordance with this provision shall be treated as confidential;

(d) A statement from the ***Department of*** Revenue[~~ Cabinet~~] that there are no delinquent taxes or other financial obligations owed by the applicant to the state or any of its agencies or departments;

(e) A statement from the county treasurer of the county in which the applicant conducts or proposes to conduct horse racing meetings that there are no delinquent real or personal property taxes owed by the applicant.

(3) The completed application shall be signed by the applicant or the chief executive officer if the applicant is an organization, sworn under oath that the information is true, accurate, and complete, and the application shall be notarized.

(4) If there is any change in any information submitted in the application process, the applicant or licensee shall notify the authority within thirty (30) days of the change.

(5) The authority shall as soon as practicable, but in no event later than November 1 in any calendar year, award dates for racing in the Commonwealth during the next year. In awarding dates, the authority shall consider and seek to preserve each track's usual and customary dates, as these dates are requested. If dates other than the usual and customary dates are requested, the applicant shall include a statement in its application setting forth the reasons the requested dates are sought. Dates for the conduct of intertrack wagering shall be awarded as provided in KRS 230.377. In the event scheduled racing is canceled by reason of flood, fire, inclement weather, or other natural disaster or emergency, the authority may award after November 1 additional racing dates to make up for those dates canceled.

(6) The authority may issue a license to conduct a horse race meeting to any association making the aforesaid application if the applicant meets the requirements established in KRS 138.530 and other applicable provisions of this chapter, and if the authority finds that the proposed conduct of racing by the association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth.

(7) As a condition precedent to the issuance of a license, the authority may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(8) Every license issued under this chapter shall specify among other things the name of the person to whom issued, the address and location of the track where the horse race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track that is granted overlapping dates for the conduct of a live race meeting with another horse racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

(9) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a horse race meeting at any track not specified therein. However, if the track specified becomes unsuitable for racing because of flood, fire, or other catastrophe, the authority may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of the track willingly consents to the use thereof.

(10) Horse racing dates may be awarded and licenses issued authorizing horse racing on any day of the year. Horse racing shall be held or conducted only between sunrise and midnight.

(11) The authority may at any time require the removal of any official or employee of any association in those instances where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with horse racing or has failed to comply with any condition of his license or has violated any law or any administrative regulation of this authority.

(12) Every horse race not licensed under this section is hereby declared to be a public nuisance and the authority may obtain an injunction against the same in the Circuit Court of the county where the unlicensed race is proposed to take place.

Section 631. KRS 234.310 is amended to read as follows:

As used in KRS 234.310 to 234.440, unless the context requires otherwise:

(1) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(2) "Person" includes every natural person, fiduciary, association, state, or political subdivision, or corporation. Whenever used in any clause prescribing and imposing imprisonment the term "person" as applied to an association means and

includes the partners or members thereof, and as applied to corporations, the officers thereof;

(3) "Liquefied petroleum gas motor fuel" means and includes all combustible gases and liquids as described in KRS 234.100 used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Public highways" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction;

(6) "Liquefied petroleum gas motor fuel dealer" means any person who imports or causes to be imported into this state for resale or use, or any person making sales in this state, of liquefied petroleum gas motor fuel for resale or use in this state by a licensed liquefied petroleum gas motor fuel user-seller;

(7) "Liquefied petroleum gas motor fuel user-seller" means any person, not licensed as a liquefied petroleum gas motor fuel dealer, who dispenses liquefied petroleum gas motor fuel into the fuel tanks of, or attached to, motor vehicles for the propulsion of such motor vehicles on the public highways, and shall include any such person who so dispenses liquefied petroleum gas motor fuel for consumption in such motor vehicles owned, leased, or operated by him.

Section 632. KRS 234.320 is amended to read as follows:

(1) An excise tax at the rate levied in KRS 138.220(1) and (2) is hereby levied and shall be paid by the liquefied petroleum gas motor fuel dealer to the ***department***[~~cabinet~~] on all taxable liquefied petroleum gas motor fuel delivered to the licensed liquefied petroleum gas motor fuel user-seller or withdrawn by the liquefied petroleum gas motor fuel dealer to propel motor vehicles on the public highways, either within or without this state. An allowance of one percent (1%) of the tax shall be made to the liquefied petroleum gas motor fuel dealer to cover unaccountable losses, bad debts, and handling and reporting the tax.

(2) No other excise or license tax shall be levied or assessed on liquefied petroleum gas motor fuel by any political subdivision of the state, except the licenses under KRS 234.120.

(3) No provision of KRS 234.310 to 234.440 shall in any way affect the surtax imposed on heavy equipment motor carriers under KRS 138.660.

Section 633. KRS 234.330 is amended to read as follows:

(1) A license shall be required of each liquefied petroleum gas motor fuel dealer.

(2) Application for a license shall be made to the ***department***[~~cabinet~~] upon forms prepared and furnished by the ***department***[~~cabinet~~]. The application shall contain such information as the ***department***[~~cabinet~~] deems necessary.

(3) Concurrently with the filing of an application for a license, a liquefied petroleum gas motor fuel dealer shall file with the ***department***[~~cabinet~~] a bond as required under KRS 234.340. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 234.340 to secure payment of taxes, penalties and interest imposed by KRS 234.310 to 234.440.

(4) The application in proper form having been accepted for filing, the bond, if required, having been accepted and approved and the other conditions and requirements of this section having been complied with, the ***department***[~~cabinet~~] shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the ***department***[~~cabinet~~], or if the ***department***[~~cabinet~~] is of the opinion that the person who makes the application as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not for sufficient cause, the ***department***[~~cabinet~~] may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The ***department***[~~cabinet~~] shall keep and file all applications and bonds, with an alphabetical index thereof.

Section 634. KRS 234.340 is amended to read as follows:

(1) Every liquefied petroleum gas motor fuel dealer shall file with the ***department***[~~cabinet~~] a corporate bond, cash bond, or securities approved by the cabinet in a minimum amount of five hundred dollars ($500) and in a maximum amount of four (4) months' liability for taxes imposed under KRS 234.310 to 234.440 but not to exceed fifty thousand dollars ($50,000). If, however, a liquefied petroleum gas motor fuel dealer is bonded as provided in KRS 138.330 the ***department***[~~cabinet~~] may waive the bonding requirement in this section provided a rider is attached to the bond to guarantee payment of all liquefied petroleum gas motor fuel taxes together with all penalties and interest thereon and secure faithful compliance with the provisions of KRS 234.310 to 234.440. The applicant for a license shall be the principal obligor and this state shall be the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the licensee

to the ***department***[~~cabinet~~] of all taxes levied under KRS 234.310 to 234.440, together with all penalties and interest thereon and generally upon faithful compliance with the provisions of KRS 234.310 to 234.440.

(2) If the liability upon the bond is discharged or reduced, whether by judgment rendered, payment made, or otherwise or if in the opinion of the ***department***[~~cabinet~~] any surety has become unsatisfactory or unacceptable, the ***department***[~~cabinet~~] may require the licensee to file a new bond with satisfactory surety in the same form and amount, failing which the ***department***[~~cabinet~~] shall cancel the license in accordance with the provisions of this section. If a new bond is furnished by the licensee as above provided, the ***department***[~~cabinet~~] shall cancel the bond for which the new bond is substituted.

(3) If upon an informal hearing, of which the licensee shall be given ten (10) days' notice in writing, the ***department***[~~cabinet~~] decides that the amount of the existing bond is insufficient to insure payment to this state of the amount of the tax, penalties, and interest for which the licensee is or may become liable, the licensee shall, upon the written demand of the ***department***[~~cabinet~~], file an additional bond in the same manner and form with surety thereon approved by the ***department***[~~cabinet~~], in any amount determined by the ***department***[~~cabinet~~] to be necessary, failing which the cabinet shall cancel the license in accordance with the provisions of this section.

(4) Any surety on a bond furnished by a licensee shall be released from all liability to this state accruing on the bond after the expiration of sixty (60) days from the date upon which the surety has lodged with the ***department***[~~cabinet~~] a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The ***department***[~~cabinet~~] shall, promptly on the receipt of the request, notify the licensee who furnished the bond, and unless the licensee shall, before the expiration of the sixty (60) day period, file with the ***department***[~~cabinet~~] a new bond with surety satisfactory to the ***department***[~~cabinet~~] in the amount and form prescribed in this section, the ***department***[~~cabinet~~] shall cancel the license in accordance with the provisions of this section. If the new bond is furnished by the licensee as above provided, the ***department***[~~cabinet~~] shall cancel the bond for which the new bond is substituted.

Section 635. KRS 234.350 is amended to read as follows:

(1) If a licensee at any time files a false monthly report of the information required, or fails or refuses to file the monthly report or to pay the full amount of the tax or violates any other provision of KRS 234.310 to 234.440, without a showing that the failure was due to reasonable cause, the ***department***[~~cabinet~~] may cancel the license and suspend the privilege of acting as a liquefied petroleum gas motor fuel dealer.

(2) Upon voluntary surrender of the license or upon receipt of a written request by a licensee, the ***department***[~~cabinet~~] may cancel his license, effective sixty (60) days from the date of request, but no license shall be canceled upon surrender or request unless the licensee has, prior to the date of cancellation, paid to this state all taxes, penalties, interest, and fines that are due or have accrued, and unless the licensee has surrendered to the ***department***[~~cabinet~~] his license.

(3) If upon investigation the ***department***[~~cabinet~~] ascertains that any person to whom a license has been issued is no longer engaged as a liquefied petroleum gas motor fuel dealer or a liquefied petroleum gas motor fuel user-seller, and has not been so engaged for a period of six (6) months, the ***department***[~~cabinet~~] may cancel the license by giving the person sixty (60) days' notice of cancellation, mailed to his last known address in which event the license shall be surrendered to the ***department***[~~cabinet~~].

(4) Whenever a licensee ceases to engage in business within this state, he shall notify the cabinet in writing within fifteen (15) days after discontinuance. All taxes that have accrued under KRS 234.310 to 234.440, whether or not then due, shall become due and payable concurrently with the discontinuance. The licensee shall make a report and pay all such taxes and any interest and penalties thereon, and shall surrender to the ***department***[~~cabinet~~] his license.

(5) If the ***department***[~~cabinet~~] takes action to cancel a license as provided in this section, the licensee shall be notified by certified or registered letter or summons of the charges against him, and he shall be afforded an opportunity for an informal hearing on the matter. The hearing shall be set at least five (5) days from the date the letter is delivered or the summons is served. Any licensee aggrieved by a decision to cancel his license after the informal hearing may appeal the decision to the Kentucky Board of Tax Appeals where he shall be granted an administrative hearing in accordance with KRS Chapter 13B.

(6) If the license is canceled by the ***department***[~~cabinet~~] as provided in this section, and if the licensee has paid to this state all taxes, interest, and penalties under KRS 234.310 to 234.440, the ***department***[~~cabinet~~] shall cancel the bond filed by the licensee.

Section 636. KRS 234.360 is amended to read as follows:

(1) Every liquefied petroleum gas motor fuel dealer licensee shall maintain complete records of inventories, purchases, sales, use and other dispositions of liquefied petroleum gas. Such records, together with manifests of lading, invoices, correspondence, and other papers pertaining to liquefied petroleum gas motor fuel shall be retained for a minimum of two (2) years, and if requested by the ***department***[~~cabinet~~], shall be made available for examination by the ***department***[~~cabinet~~].

(2) Where storage of liquefied petroleum gas is for multiple uses, and where the number of gallons taxable of liquefied petroleum gas motor fuel is determined by the liquefied petroleum gas motor fuel dealer and/or the liquefied petroleum gas motor fuel user-seller, based on the best estimate possible from mileage and efficiency records available, all mileage and

efficiency records of such motor vehicle must be retained for a minimum period of two (2) years, and, if requested by the ***department***[~~cabinet~~], shall be made available for examination by the ***department***[~~cabinet~~].

Section 637. KRS 234.370 is amended to read as follows:

(1) Every liquefied petroleum motor fuel dealer licensee shall file with the ***department***[~~cabinet~~], on forms prescribed by the ***department***[~~cabinet~~], a monthly tax return. The return shall be made under penalty of perjury and shall show such information as the ***department***[~~cabinet~~] may require. The licensee shall file the return on or before the twenty-fifth day of the next succeeding calendar month following the month to which it relates.

(2) The monthly tax return shall be accompanied by remittance covering the tax due.

Section 638. KRS 234.380 is amended to read as follows:

Liquefied petroleum gas motor fuel dealers using, selling, and/or delivering liquefied petroleum gas to motor vehicles, or into storage for use in motor vehicles, shall report and pay the state tax at the rate levied in KRS 138.220(1) and (2) on all such fuel to the ***Department of*** Revenue[~~ Cabinet~~]. The dealer shall issue an invoice to the customer whenever the sale or delivery is consummated giving the invoice date, name and address of the customer, and number of taxable gallons sold or delivered. The number of taxable gallons to be invoiced shall be determined in the following manner by the dealer:

(1) The metered gallons, if placed into a fuel tank of a motor vehicle;

(2) The metered gallons, if placed into storage, all of which is to be used or sold for use in motor vehicles;

(3) The number of gallons to be used in motor vehicles, if the storage is for multiple uses. The number of taxable gallons to be determined by the user and the dealer based on the best estimate possible from mileage and efficiency records available; or

(4) If the motor vehicle carburetor is connected to a fuel line leading from a fuel tank where another, or other motors are supplied with fuel also, then the number of gallons to be invoiced as taxable motor fuel shall be determined from mileage and fuel efficiency records.

Section 639. KRS 234.400 is amended to read as follows:

The ***department***[~~cabinet~~] may audit the books and records of each licensee and make such other investigations as it deems necessary to determine whether or not the tax and other requirements imposed by KRS 234.310 to 234.440 have been met.

Section 640. KRS 234.410 is amended to read as follows:

The reports required by KRS 234.370 shall be accompanied by a certified or cashier's check payable to the State Treasurer, for the amount of tax due for the preceding calendar month computed as provided in KRS 234.380, except that the ***department***[~~cabinet~~] may waive this requirement and accept the check of the licensee if he is of sound financial condition and has established a good record of compliance with the requirements of KRS 234.310 to 234.440.

Section 641. KRS 234.440 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall administer the taxes provided in KRS 234.310 to 234.430 and this section and may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

(2) The ***department***[~~cabinet~~] shall, upon the request of the officials to whom are entrusted the enforcement of the liquefied petroleum gas motor fuel tax law of any other state of the United States or the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the manufacture, receipt, sale, use, transportation, shipment, or delivery by any person of liquefied petroleum gas motor fuel, provided such other state or states provide for the furnishing of like information to this state.

Section 642. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

  (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;

  (b) Patented, patent, and proprietary medicines;

  (c) Toilet, medicinal, and antiseptic preparations and solutions;

  (d) Flavoring extracts and syrups;

  (e) Denatured alcohol or denatured rum;

  (f) Vinegar and preserved sweet cider;

  (g) Wine for sacramental purposes;

  (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and

(i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.

(3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

(8) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~] unless the context requires otherwise.

(9) "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.

(10) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(11) "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.

(12) "City administrator" means city alcoholic beverage control administrator.

(13) "Commissioner" means the commissioner of alcoholic beverage control.

(14) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

(15) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(16) "County administrator" means county alcoholic beverage control administrator.

(17) "Department" means the Department of Alcoholic Beverage Control.

(18) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

(19) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(20) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(21) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(22) "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.

(23) "Farm winery" means a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, manufacturing and bottling wines in an amount not to exceed twenty-five thousand (25,000) gallons per year.

(24) "Election" means:

(a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or

(b) Any other election not pertaining to alcohol.

(25) "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes.

(26) "License" means any license issued pursuant to KRS 243.020 to 243.670.

(27) "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(28) "Limited restaurant" means a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a territory where prohibition is no longer in effect under KRS 242.185(6).

(29) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.

(30) "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

(31) "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.

(32) "Minor" means any person who is not twenty-one (21) years of age or older.

(33) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

(34) "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

(35) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(36) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(37) "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its gross receipts from the sale of food.

(38) "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(39) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

(40) "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

(41) "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(42) "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

(43) ***"Commissioner"***[~~"Secretary"~~] means the ***commissioner***[~~secretary~~] of the Kentucky ***Department of*** Revenue[~~ Cabinet~~].

(44) "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.

(45) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(46) "Small winery" means a winery producing wines from grapes, other fruit, or honey produced in Kentucky, unless exempt under KRS 243.155(2), in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.

(47) "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.

(48) "State administrator" means the administrator of the Distilled Spirits Unit or the administrator of the Malt Beverage Unit, or both, as the context requires.

(49) "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.

(50) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any

products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

(51) "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(52) "Warehouse" means any place in which alcoholic beverages are housed or stored.

(53) "Wholesale sale" means a sale to any person for the purpose of resale.

(54) "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

(55) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

(56) "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded. It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse, or storeroom located within this state.

Section 643. KRS 241.020 is amended to read as follows:

(1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, except that the collection of taxes shall be administered by the ***Department of*** Revenue[~~ Cabinet~~].

(2) A distilled spirits unit, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.

(3) A malt beverage unit, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.

Section 644. KRS 243.200 is amended to read as follows:

(1) A distilled spirits and wine transporter's license shall authorize the licensee to transport distilled spirits and wine to or from the licensed premises of any licensee under KRS 243.020 to 243.670 if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.

(2) A distilled spirits and wine transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of common carrier.

(3) No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, unless expressly authorized to do so by law.

(4) Distilled spirits and wine may be transported by the holder of any license authorized by KRS 243.030 from and to express or freight depots to and from the premises covered by the license of the person so transporting distilled spirits or wine.

(5) A licensed alcoholic beverage store operator may move, within the same county, alcoholic beverages from one of the operator's licensed stores to another without a transporter's license. However, the licensed store operator shall keep and maintain, in one (1) of his or her stores in that county, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed store to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the ***Department of*** Revenue[~~ Cabinet~~] upon request.

(6) Distilled spirits and wine may be transported by the holder of any retail package or drink license issued under KRS 243.030 from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the department. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

Section 645. KRS 243.380 is amended to read as follows:

(1) Applications for licenses provided for in KRS 243.030 and 243.050 shall be made to the administrator of the distilled spirits unit. Applications for licenses provided for in KRS 243.040 shall be made to the administrator of the malt beverage unit.

(2) All applications shall be on forms furnished by the department. They shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as the board by regulation requires. Each application shall be accompanied by payment. Payment of the license fee may be by certified check, cash, a postal or express money order, or any other method of payment approved in writing by both the Finance and Administration Cabinet and the Office of the State Treasurer. Promptly upon receipt thereof the board shall pay the same into the State Treasury, giving the ***Department of*** Revenue[~~ Cabinet~~] copies of the pay-in vouchers and such other supporting data as the ***Department of*** Revenue[~~ Cabinet~~] may require for revenue control purposes.

Section 646. KRS 243.400 is amended to read as follows:

(1) Every applicant for a brewer's, distiller's, rectifier's, bottling house or vintner's license shall file with his application a bond to the state in the amount of one thousand dollars ($1,000). The bond shall be on a form approved by the board and shall have corporate surety registered by the Department of Insurance. The applicant shall be the principal obligor and the state shall be the obligee. The bond shall be conditioned upon the prompt payment by the obligor to the ***Department of*** Revenue[~~ Cabinet~~] of any and all state taxes, with penalties and interest. The applicant may file a continuing bond provided that each renewal application is accompanied by:

(a) An affidavit that the bond remains in force, and

(b) A copy of consent of surety.

An applicant for two (2) or more licenses of the same kind may file a blanket bond covering all of his operations. The amount of such a bond shall be the same as if separate bonds were furnished.

(2) Every applicant for a wholesaler's license shall file with his application a corporate surety bond to the state in the minimum amount of two thousand dollars ($2,000) or an amount equal to three (3) times the monthly tax liability, whichever is less, and up to a maximum amount of twenty-five thousand dollars ($25,000). It shall be sufficient, in the opinion of the board, which shall consider the financial reputation and rating of the applicant, to insure payment to the state of the amount of any and all taxes and penalties and interest for which the wholesaler may become liable. It shall be on a form to be approved by the board and with surety on the bond approved by the board. The applicant shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the wholesaler to the ***Department of*** Revenue[~~ Cabinet~~] of any and all state taxes, with penalties and interest.

Section 647. KRS 243.420 is amended to read as follows:

A suit to recover on any of the bonds mentioned in KRS 243.400 and 243.410 may be brought in the Franklin Circuit Court or in the circuit court of the county in which the licensed premises are located, in the name of the state, by the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] or on relation of any party aggrieved. If the obligor named in the bond has violated any of the conditions of the bond, recovery of the penal sum of the bond may be had in favor of the state or of the party aggrieved; or judgment for tax, penalties and interest may be rendered in favor of the state.

Section 648. KRS 243.490 is amended to read as follows:

(1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state board if the licensee shall have violated any of the provisions of KRS Chapter 241, 243, or 244, or any rule or regulation of the board or of the ***Department of*** Revenue[~~ Cabinet~~] relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency, or commission, or any ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local alcoholic beverage authority or any similar body heretofore in existence or authorized by the terms of KRS Chapters 241, 243, and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations, or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any license may be revoked for any cause which the Alcoholic Beverage Control Board in the exercise of its sound discretion deems sufficient. A license may be revoked for any of the reasons for which the administrator would have been required to refuse a license if the facts had been known.

(2) If it is determined that an applicant for a license or license renewal under the provisions of this chapter is a delinquent taxpayer as defined in KRS 131.1815, the Department of Alcoholic Beverage Control may refuse to issue or renew the license to the applicant.

Section 649. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.

(2) Making any false, material statements in an application for a license or supplemental license.

(3) Violation of the provisions of KRS 243.670.

(4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:

(a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;

(b) Two (2) misdemeanors directly or indirectly attributable to the use of intoxicating liquors within two (2) consecutive years; or

(c) Any felony.

(5) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~] made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act

of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This section shall not apply to contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter 154A.

(8) Conviction of the licensee, his agents, servants, or employees for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances; or

(c) Knowingly receiving stolen property upon the licensed premises.

Section 650. KRS 243.630 is amended to read as follows:

(1) For purpose of this section, "transfer" means:

(a) The transfer to a new person or entity of ten percent (10%) or more ownership interest in any license issued under KRS 243.020 to 243.670; or

(b) The transfer in bulk, and not in the ordinary course of business, of a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business.

(2) Any license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the state administrator in the exercise of his sound discretion under KRS 243.640 or 243.650. For the purposes of this section, each railroad dining car shall be deemed premises to be separately licensed.

(3) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the department, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the state administrator. The state administrator shall grant approval if the person acquiring the interest meets the qualifications for a new applicant.

(4) Any acquisition of interest in a license without prior authorization shall be void.

(5) All applications for approval of a transfer shall be made in writing to the state administrator having jurisdiction over the license.

(6) Applications for approval of a transfer shall be made under oath or affirmation, shall be signed by both the transferor and the transferee, and shall contain such other information as the department may prescribe.

(7) The appropriate state administrator shall grant or deny the application within sixty (60) days of the date the application is substantially complete or on a later date that is mutually acceptable to the administrator and the transferee, but it shall not be acted upon before the end of the public protest period outlined in KRS 243.360.

(8) No licensee or other person seeking to acquire an interest in an existing license shall transfer control or assume control of any licensed premises by agreement or otherwise without the written consent of the state malt beverage administrator or the state distilled spirits administrator or both.

(9) A licensee shall not transfer his or her license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or regulation which may result in the suspension or revocation of the license are pending.

(10) A licensee shall not transfer his or her license or any interest he or she has in the license if the licensee owes a debt on the inventory to a wholesaler responsible for the collection and payment of the tax imposed under KRS 243.884.

(11) A licensee shall not transfer his or her license or any interest in the license if the licensee owes the Commonwealth of Kentucky for taxes as defined in KRS 243.500(5). A transfer shall not take place until the department is notified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~] that the licensee's indebtedness has been paid or resolved to the cabinet's satisfaction. This section shall not prohibit a transfer of a license or an interest in a license by a trustee in bankruptcy if all other requirements of this section are met.

Section 651. KRS 243.710 is amended to read as follows:

Each wholesaler shall pay to the ***department***[~~cabinet~~] five cents ($0.05) per case on each case of distilled spirits sold by him in the state. This tax shall be computed each month according to the report required to be filed by KRS 243.850 and shall be paid on or before the date in each succeeding month when reports are required to be filed.

Section 652. KRS 243.730 is amended to read as follows:

(1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by KRS 243.720(1) and (2) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits and wine is transferred from the wholesaler to retailers or consumers in this state, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth.

(b) Distributors or retailers of malt beverages, who purchase malt beverages directly from a brewer, shall pay and report the tax levied by KRS 243.720(3) on or before the twentieth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to the distributor or retailer, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth. The credit allowed brewers in this state, under the provisions of KRS 243.720(3)(b), shall flow through to the distributor or retailer who purchases malt beverages directly from the brewer. If a brewer sells, transfers, or passes title to malt beverages to any of its employees for home consumption or to any charitable or fraternal organization pursuant to the provisions of KRS 243.150, the brewer shall be responsible for paying and reporting the tax levied by KRS 243.720(3) in accordance with the provisions of subsection (c) of this section.

(c) Every brewer selling, transferring, or passing title to malt beverages to any person in this state other than a distributor or retailer, and every other person selling, transferring, or passing title of distilled spirits, wine, or malt beverages to distributors, retailers, or consumers shall report and pay the tax levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine, or malt beverages is transferred to a distributor, retailer, or consumer in this state, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth.

(d) Every distributor, retailer, or consumer possessing, using, selling, or distributing distilled spirits, wine, or malt beverages in this state upon which the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth. Such liability shall not be extinguished until the tax has been paid to the ***Department of*** Revenue[~~ Cabinet~~].

(e) Notwithstanding the provisions of subsection 1(a) of this section, every owner of a farm winery shall pay and report the tax levied by KRS 243.720 (1) and (2) on a quarterly basis, in accordance with administrative regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth.

(2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by sale or gift distilled spirits and wine shall qualify with the ***Department of*** Revenue[~~ Cabinet~~]. In order to so qualify, each wholesaler shall furnish to the ***Department of*** Revenue[~~ Cabinet~~] a certified copy of the bond required to be filed with the Cabinet of Alcoholic Beverage Control under the provisions of KRS 243.400(2).

(3) Notwithstanding the provisions of KRS 243.400(1), every brewer before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the ***Department of*** Revenue[~~ Cabinet~~] in such manner as the ***department***[~~cabinet~~] may require.

(4) The ***department***[~~cabinet~~] shall have the power to require a bond from any other person liable for Kentucky distilled spirits, wine, or malt beverage taxes provided such person is not otherwise required to post a bond under the provisions of this section. The amount of the bond for persons liable for Kentucky distilled spirits or wine taxes shall be computed as provided in KRS 243.400(2). The amount of the bond for persons liable for Kentucky malt beverage taxes shall be in the minimum amount of one thousand dollars ($1,000) or an amount equal to three (3) times the person's average monthly Kentucky malt beverage tax liability, whichever is greater. The bond shall be on a form prescribed by the ***department***[~~cabinet~~] and have corporate surety registered by the Department of Insurance. The person liable for the tax shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the person to the ***Department of*** Revenue[~~ Cabinet~~] of all malt beverage taxes due, with penalties and interest.

Section 653. KRS 243.790 is amended to read as follows:

The sale or distribution of alcoholic beverages manufactured in or imported into this state for shipment permanently out of the state to be sold through retail outlets without the state and consumed without the state shall not be subject to the tax imposed by KRS 243.720. Provided, however, the ***Department of Revenue***[~~revenue cabinet~~] may, when necessary for the purpose of control enforcement or protection of revenue, prescribe the conditions under which containers of such alcoholic beverages for shipment permanently out of the state to be sold through retail outlets without the state and consumed without the state may be kept and trafficked in without payment of the tax.

Section 654. KRS 243.850 is amended to read as follows:

For the purpose of assisting in the enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof, every licensee, except retailers, whether subject to the payment of taxes imposed by said sections or any amendments thereof, shall, on or before the twentieth day of each month, render to the ***Department of*** Revenue[~~ Cabinet~~] a statement, in writing, of all his trafficking in alcoholic beverages during the preceding month. Such statement shall be taken directly from the records of the reporting licensee, and shall set forth on forms furnished by the ***Department of*** Revenue[~~ Cabinet~~] such information as shall be required by it. Such statement shall include alcohol destined for sale outside the state, as well as alcoholic beverages subject to the tax imposed by KRS 243.720 to 243.850 and 243.884 or any amendments thereof. Provided, that the ***Department of*** Revenue[~~ Cabinet~~] shall have authority to require from retail licensees and other licensees, other reports and statements at such times as are necessary for the enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof.

Section 655. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of nine percent (9%) and upon all distributors of beer at the rate of nine percent (9%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

  (a) Sales made between wholesalers or between distributors;

  (b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

  (c) Until June 30, 2004, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky.

Section 656. KRS 244.150 is amended to read as follows:

(1) Each licensee under KRS 243.020 to 243.670 shall keep and maintain upon the licensed premises, or make readily available upon request of the department or the ***Department of*** Revenue[~~ Cabinet~~], adequate books and records of all transactions involved in the manufacture or sale of alcoholic beverages, in the manner required by regulations of the department and the ***Department of*** Revenue[~~ Cabinet~~].

(2) The commissioner may require common carriers to provide information in such form as he or she deems wise respecting all shipments of alcoholic beverages to, from, or between persons in Kentucky.

Section 657. KRS 247.910 is amended to read as follows:

For purposes of KRS 247.900 to 247.920:

(1) "Alcohol production facility" shall mean and include any property or any facility which is not fueled by petroleum but fueled by Kentucky coal, or in the process of converting to the use of coal with the completion date to be in two (2) years or less, and designed, installed, or constructed as a component part of any commercial or industrial premises for the primary purpose of producing ethanol derived from agricultural products or by-products for use as a motor fuel;

(2) "Gasohol" means a fuel containing a mixture of gasoline and at least ten percent (10%) ethanol which is at least one hundred ninety-eight (198) proof for use in motor vehicles;

(3) "Alcohol production tax exemption certificate" shall mean that certificate issued by the ***Department of*** Revenue[~~ Cabinet~~] pursuant to KRS 247.920; and

(4) "Ethanol" means ethyl alcohol produced from grain or other agricultural products or by-products for use as a motor fuel.

Section 658. KRS 247.920 is amended to read as follows:

(1) Application for an alcohol production exemption certificate shall be filed with the ***Department of*** Revenue[~~ Cabinet~~] in such manner and in such form as may be prescribed by regulations issued by the ***Department of*** Revenue[~~ Cabinet~~] and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the ***Department of*** Revenue[~~ Cabinet~~] for the proper administration of KRS 247.910 and this section. The Kentucky Coal Council shall provide technical assistance and factual information as requested in writing by the ***Department of*** Revenue[~~ Cabinet~~]. If the ***Department of*** Revenue[~~ Cabinet~~] finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before issuing an alcohol production tax exemption certificate, the ***Department of*** Revenue[~~ Cabinet~~] shall give notice in writing by mail to the Kentucky Coal Council, and shall afford to the applicant and to the Kentucky Coal Council an opportunity for a hearing. On like notice and opportunity for a hearing, the ***Department of*** Revenue[~~ Cabinet~~] shall on its own initiative revoke the certificate when any of the following appears:

  (a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.

(3) If the circumstances so require, the ***Department of*** Revenue[~~ Cabinet~~], in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the ***Department of*** Revenue[~~ Cabinet~~] revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Kentucky Coal Council. Notice of an order of the ***Department of*** Revenue[~~ Cabinet~~] denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Kentucky Coal Council. The applicant or holder and the Kentucky Coal Council shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the ***Department of*** Revenue[~~ Cabinet~~] to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Kentucky Coal Council and the ***Department of*** Revenue[~~ Cabinet~~].

(8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Kentucky Coal Council and to the ***Department of*** Revenue[~~ Cabinet~~].

(9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 659. KRS 247.946 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, administrative regulations, and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in order to determine the following:

(a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of KRS 247.940 to 247.978 and the rules and administrative regulations of the corporation;

(b) The qualifications of the applicant in the areas of experience, training, and financial ability in relation to the project for which assistance is sought and any other areas as the corporation shall determine necessary and desirable in implementing the intent of KRS 247.940 to 247.978 in the promotion of agriculture throughout the Commonwealth. Analysis shall include a careful evaluation of character, experience, record, and prospects for sound financial management and sound operation of the project. Financial ability factors to be considered shall include the applicant's total assets controlled, equity owned, contingent liabilities, history of earnings to date, and repayment capacity, as well as other factors set by the corporation. Consideration may be given to the special needs of beginning farmers;

(c) The economic need for the project in the area based upon general economic conditions and unemployment in the region;

(d) The economic soundness of the project based upon generally accepted cost-benefit methodology; and

(e) Consistency of the project with other policies of the Commonwealth designed to ensure a sustained land base for agriculture including preservation of prime farmland and promotion of soil conservation techniques for protection of farmland;

(3) To issue from time to time bonds, notes, bond anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidence of indebtedness, hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to fulfill and achieve its authorized

public functions or corporate purposes, as set forth in the provisions of KRS 247.940 to 247.978; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 to 103.285; provided, however, that bonds or notes issued by the corporation shall not be subject to the jurisdiction or approval of the Industrial Revenue Bond Oversight Committee or the State Property and Buildings Commission but shall be subject to the review of the Office of Financial Management ***in the Office of the Controller within the Finance and Administration Cabinet***;

(4) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(5) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(6) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(7) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(8) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;

(9) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(10) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, and operate real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real and personal property where necessary or appropriate to the purposes of the corporation subject to the rights of holders of the bonds of the corporation, at public or private sale, with or without public bidding;

(11) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by KRS 247.940 to 247.978;

(12) To procure insurance against any loss in connection with its operations in the amounts and from any insurers, as it may deem necessary or desirable;

(13) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract, or agreement of any kind to which the corporation is a party;

(14) To include in any borrowing those amounts deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory, and legal fees and any other expenses necessary or incident to any borrowing;

(15) To make and publish administrative regulations respecting its lending programs and any other rules and regulations as are necessary to effectuate its corporate purposes;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of KRS 247.940 to 247.978;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(18) To sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to subsection (28) of this section;

(19) To maintain an office in the city of Frankfort and at any other place or places as it may determine;

(20) To employ fiscal consultants, engineers, attorneys, appraisers, and such other agents and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;

(21) To invest any funds held in sinking funds, reserve funds, or trust fund accounts or any moneys not required for immediate disbursement by the corporation in:

  (a) Obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities;

  (b) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations, fully collateralized as to any principal amount in excess of the amount insured by the United States government or any agency thereof;

  (c) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two (2) highest grades given by a nationally recognized rating agency; and

  (d) Any other investment authorized by law for the investment of funds of the Commonwealth;

(22) Subject to the rights of holders of bonds of the corporation, to renegotiate, refinance, or foreclose on any mortgage,

security interest, or lien; or commence any action to protect or enforce any right or benefit conferred upon the corporation by any law, mortgage, security interest, lien, contract, or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the corporation may complete, administer, pay the principal of and interest on any obligation incurred in connection with the property, dispose of and otherwise deal with the property in any manner as may be necessary or desirable to protect the interest of the corporation or of holders of its bonds therein;

(23) To insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans, or mortgages, or any other type of loans, and pay or receive premiums on insurance, coinsurance, or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance, or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or state government or any private insurance company;

(24) To undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the Commonwealth and needs relating to the promotion of agricultural exports and ways of meeting the needs, and make the studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;

(25) To accept federal, state, or private financial or technical assistance and comply with any conditions for assistance, provided that those conditions are not in conflict with the intent of the provisions of KRS 247.940 to 247.978;

(26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable transfers, letters of credit, and other evidence of indebtedness;

(27) To serve as the beneficiary of any public trust; and

(28) To create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds.

Section 660. KRS 248.705 is amended to read as follows:

(1) Forty million dollars ($40,000,000) of the moneys credited to the agricultural development fund as set out in KRS 248.703(1)(a) shall be set aside to supplement Phase II on April 26, 2000. Additional funds shall be set aside to supplement Phase II funding as needed from moneys credited to the agricultural development fund after June 30, 2000.

(2) Phase II payments shall be supplemented each year for tobacco growers and quota owners so that the total amount available for payment is maintained at one hundred fourteen million dollars ($114,000,000) each year. If the Phase II supplement set aside referred to in subsection (1) of this section falls below the amount needed to reach the one hundred fourteen million dollar ($114,000,000) level in any year before the end of the twelve (12) year Phase II funding program, procedures outlined in subsection (3) of this section shall be followed.

(3) (a) If the moneys set aside for Phase II supplement before June 30, 2000, become insufficient to continue to meet the yearly one hundred fourteen million dollar ($114,000,000) funding level, moneys needed to supplement Phase II funding to maintain funding at the 1999 level of one hundred fourteen million dollars ($114,000,000) per year for each of the remaining eleven (11) years of the Phase II funding program shall continue to be provided to the Phase II set aside from funds received in the tobacco settlement agreement fund after June 30, 2000. As Master Settlement Agreement funding becomes available after June 30, 2000, for calendar year 2001 and each year thereafter for the life of the Phase II payment program, the moneys needed for the Phase II supplement to assure availability of the one hundred fourteen million dollar ($114,000,000) funding level for that year shall be taken from the agricultural development fund. When a determination is made that funds are needed, funds shall be taken from the agricultural development fund before any other distributions are made following the next master settlement payment in April of each year. On the last year of distribution of the Phase II supplement funds, any excess funds beyond those needed to reach the one hundred fourteen million dollar ($114,000,000) level shall be returned to the agricultural development fund.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, if the moneys required to supplement the Phase II funding at the one hundred fourteen million dollar ($114,000,000) level are less than twenty million dollars ($20,000,000) in a year, the amount shall be deferred to a later year until at least a deficit of twenty million dollars ($20,000,000) is achieved before supplement payments are made.

(4) The Tobacco Settlement Trust Corporation created in KRS 248.480 shall provide for distribution of the Phase II supplement funds. The corporation shall use the same formula and process for distribution of the Phase II supplement funds as it uses for distributions under the regular Phase II payment program, except that the corporation shall send the list of supplement payment recipients to the ***Department of*** Revenue[~~ Cabinet~~] rather than to the trustee of the National Tobacco Grower Settlement Trust. The ***Department of*** Revenue[~~ Cabinet~~] shall process the information and issue the checks at no charge to the Agricultural Development Board. The Phase II supplement funds shall be identified as supplement funds when distributed to tobacco growers and quota owners.

Section 661. KRS 248.750 is amended to read as follows:

As used in KRS 138.146 and 248.750 to 248.769:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~];

(2) "Cigarettes" means cigarettes as defined in KRS 138.130;

(3) "Importer" means an importer as defined in 26 U.S.C. sec. 5702(l);

(4) "Manufacturer" means any person who manufactures or produces cigarettes within or without the Commonwealth;

(5) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers;

(6) "Package" means package as is defined in 15 U.S.C. sec. 1332(4); and

(7) "Person" means person as defined in KRS 446.010.

Section 662. KRS 262.765 is amended to read as follows:

(1) The board of directors of a watershed conservancy district shall prepare and furnish to the property valuation administrator by January 1 each year a list of the landowners in each county involved showing the real property subject to assessment, and the property valuation administrator of the county or counties involved shall indicate, for the use of the clerk, such information on the tax rolls. The list furnished the property valuation administrator by the board of directors shall: list the landowners in alphabetical order by taxing districts as shown on the previous year's tax roll, list the total acreage and the acreage in the watershed conservancy district owned by each landowner, and show that part of the previous year's assessment attributable to real property within the watershed conservancy district on those parcels which are not entirely within the district.

(2) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the tax due the district from each landowner in accordance with the rate fixed by the board of directors and the value or acreage of the real property indicated on the tax roll. The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue[~~ Cabinet~~].

Section 663. KRS 271B.14-220 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 271B.14-210, or revoked under the provisions of KRS 271A.615, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

  (a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;

  (b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;

  (c) State that the corporation's name satisfies the requirements of KRS 271B.4-010;

  (d) Contain a certificate from the ***Department of*** Revenue[~~ Cabinet~~] reciting that all taxes owed by the corporation have been paid; and

  (e) Be accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report provided for in KRS 271B.1-220.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.

(4) Notwithstanding any other provision to the contrary, any corporation which was administratively dissolved or revoked and has taken the action necessary to wind up and liquidate its business and affairs under KRS 271B.14-050, and notify claimants under KRS 271B.14-060 and 271B.14-070, shall be prohibited from reinstatement.

Section 664. KRS 273.3182 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 273.318 or revoked under the provisions of KRS 273.367, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

  (a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;

  (b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;

  (c) State that the corporation's name satisfies the requirements of KRS 273.177;

  (d) Contain a certificate from the ***Department of*** Revenue[~~ Cabinet~~] reciting that all taxes owed by the corporation have been paid; and

  (e) Be accompanied by the fee for filing a statement or report provided for in KRS 273.368(1)(j) and the current fee for filing each delinquent annual report provided for in KRS 273.368.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.

Section 665. KRS 275.295 is amended to read as follows:

(1) The Secretary of State may commence a proceeding to administratively dissolve a limited liability company if:

(a) The limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days after the annual report is due;

(b) The limited liability company is without a registered agent or registered office in Kentucky for at least sixty (60) days; or

(c) The limited liability company does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued.

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days from the date on which notice was mailed, the Secretary of State shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the limited liability company by mailing the notice by first class mail to the limited liability company at its registered office.

(3) (a) A limited liability company administratively dissolved under subsection (2) of this section may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the limited liability company and the effective date of its administrative dissolution;
2. State that the ground or grounds for dissolution either did not exist or have been eliminated;
3. State that the limited liability company's name satisfies the requirements under KRS 275.100;
4. Contain a certificate from the Kentucky ***Department of*** Revenue[~~ Cabinet~~] stating that all taxes owed by the limited liability company have been paid; and
5. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report as provided for in KRS 275.055(1).

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and
2. Serve a copy on the limited liability company.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company shall resume carrying on business as if the administrative dissolution had never occurred.

(4) (a) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company with a written notice that explains the reason or reasons for denial by mailing notice by first-class mail to the limited liability company at its registered office or, if none, to the last principal office identified on the most recent annual report.

(b) The limited liability company may appeal the denial of reinstatement to the Circuit Court of the county where the limited liability company's principal office, or, if there is none in Kentucky, its registered office, is located within thirty (30) days after service of the notice of denial by doing the following:

1. Filing a petition with the court to set aside the dissolution; and
2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as are other civil proceedings.

Section 666. KRS 278.130 is amended to read as follows:

(1) For the purpose of maintaining the commission, including the payment of salaries and all other expenses, and the cost of regulation of the utilities subject to its jurisdiction, the ***Department of*** Revenue[~~ Cabinet~~] shall each year assess the utilities in proportion to their earnings or receipts derived from intrastate business in Kentucky for the preceding calendar

year as modified by KRS 278.150, and shall notify each utility on or before July 1 of the amount assessed against it. The total amount so assessed shall not in any year exceed two (2) mills on intrastate receipts as so modified, which shall be deposited into the State Treasury to the credit of the general fund. The sum by each utility shall not be less than fifty dollars ($50) in any one (1) year.

(2) The assessments provided for in this section shall be in lieu of all other fees or assessments levied by any city or other political subdivision for the control or regulation of utilities.

(3) The commission, upon application by a utility, shall authorize the utility to adjust its rates to recover, within not more than one (1) year, any change in the annual assessment and any costs imposed by commission order for the fees and expenses of consultants. The application, and any hearing or other proceedings thereon, shall be limited to the amount of such adjustment.

Section 667. KRS 278.150 is amended to read as follows:

(1) The commission shall, on or before June 1, certify to the ***Department of*** Revenue[~~ Cabinet~~] and the Finance and Administration Cabinet the amount of intrastate business of each utility in the state subject to its jurisdiction during the previous calendar year. The commission shall, when certifying the intrastate sales of retail electric suppliers, deduct from such sales one-half (1/2) of the applicable wholesale power costs, provided the utility from which such wholesale power purchases were made pays assessment on the full wholesale value of its gross intrastate sales in Kentucky. When certifying the intrastate sales of retail electric suppliers not subject to the jurisdiction of the commission for rates, the commission shall deduct one-half (1/2) of their actual intrastate sales. All utilities classified as retail electric suppliers shall pay assessments based on the amount of intrastate sales less deductions as certified by the commission.

(2) The Finance and Administration Cabinet shall, on or before June 10, establish the assessment rate and give written notification thereof to the ***Department of*** Revenue[~~ Cabinet~~] and the commission. The ***Department of*** Revenue[~~ Cabinet~~] shall collect and pay the assessment into the State Treasury to the credit of the general expenditure fund. All such assessments shall be paid into the State Treasury through the ***Department of*** Revenue[~~ Cabinet~~] on or before July 31 of the year in which the assessments are made.

(3) If any amount in the special fund for the maintenance of the commission remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account of the commission and may be used during any succeeding year.

Section 668. KRS 281.625 is amended to read as follows:

(1) (a) Upon the filing of an application for a certificate or permit or for amendment or for sale, transfer, or lease, or for change in route, or for abandonment of a certificate or permit, the department shall, within a reasonable time, fix the time and place for a hearing.

(b) The department shall mail written notice of the hearing, and the right to file a protest, in accordance with the regulations of the department and KRS Chapter 13B, to the applicant and every authorized carrier, including railroads, serving any part of the route proposed to be served or abandoned by the applicant. The department may also give similar notice to any other person, who, in the opinion of the department, may be interested in or affected by the granting of the application.

(2) If a protest is filed, the department shall hold an administrative hearing on the application. The department, in its discretion, may hold a hearing if no protest is filed. Hearings conducted under this section shall be conducted in accordance with KRS Chapter 13B. Any person having interest in the subject matter may, in accordance with the regulations prescribed therefor, file a protest to the granting, in whole or in part, of the application.

(3) If the application is for a nonprofit bus certificate and no protest is filed, the department may grant the certificate without a hearing, provided the provisions of subsection (3) of KRS 281.630 or KRS 281.801 are met.

(4) The department may, if the application is solely for rights previously granted by the Interstate Commerce Commission, dispense with the holding of a hearing.

(5) Persons engaged in the transportation in interstate commerce in Kentucky of any commodity exempted by the Interstate Commerce Commission from regulation shall be subject to the same Kentucky requirements and regulations as if the persons were transporting commodities not exempted by the Interstate Commerce Commission, except that in lieu of filing or registering with the department a certificate of public convenience and necessity as issued by the Interstate Commerce Commission, the persons shall apply to the department for a permit or certificate restricted to interstate commerce and the permit or certificate may be issued without a hearing.

(6) If an applicant has been granted an irregular route common carrier certificate by the Interstate Commerce Commission, the department may grant an irregular route common carrier certificate restricted to operation in interstate commerce, and on the granting of same, it shall notify the ***Department of*** Revenue[~~ Cabinet~~] of the applicant's operation.

(7) The department may grant a permit, upon application, to operate a U-drive-it without the holding of a hearing.

Section 669. KRS 281.900 is amended to read as follows:

(1) The Kentucky Motor Carrier Advisory Committee is created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by KRS 281.905.

(2) The committee shall consist of the secretary of the Transportation Cabinet, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~], the Speaker of the House, the President of the Senate, or their respective designated representatives, and nine (9) representatives of the motor carrier industry engaged in operations in the Commonwealth in the transportation of persons or property.

(3) On July 15, 1990, the Governor shall appoint the motor carrier industry representative to the committee. Members shall be appointed by the Governor for three (3) years, except that initial appointments to the board shall be staggered in the following manner:

(a) Three (3) members shall serve for a period of one (1) year;

(b) Three (3) members shall serve for a period of two (2) years; and

(c) Three (3) members shall serve for a period of three (3) years.

(4) Motor carrier industry representatives of the committee shall qualify for membership by taking the constitutional oath of office and shall be provided with certificates of appointments. The members of the committee shall serve without per diem or compensation.

Section 670. KRS 287.235 is amended to read as follows:

(1) Common trust funds shall not be considered as an entity for income or other tax purposes, nor shall investment in such fund make taxable any property which is otherwise exempt therefrom; and for purposes of taxation, the status of the common trust fund and of each participant therein shall be determined as though there were no common fund and as though each participant was the owner of its proportionate share of every asset held in the common fund. The bank or trust company maintaining said fund shall file a report of said fund with the property valuation administrator as of the ad valorem tax date and shall file annually such income tax information as may be required by the ***Department of*** Revenue[~~ Cabinet~~].

(2) Notwithstanding subsection (1) of this section, if a common trust fund transfers substantially all of its assets to one (1) or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are transferred and such stock is distributed by such common trust fund to the participants in such common trust fund in a transaction which would qualify under Section 584(h) of the Internal Revenue Code of 1986, as amended, for the nonrecognition of gain or loss of such transfer or distribution by the common trust fund, then no gain or loss shall be recognized for Kentucky income tax purposes by the common trust fund by reason of such transfer or distribution or by the participants in such common trust fund by reason of such exchange.

Section 671. KRS 299.530 is amended to read as follows:

All domestic mutual fire insurance companies referred to in KRS 299.470 or cooperative and assessment fire insurance shall by March 1 of each year, file with the ***Department of*** Revenue[~~ Cabinet~~] a report showing the amount of premiums contracted for by them in a reinsurance company during the preceding calendar year, and shall pay at the time of making the return a tax of two dollars ($2) on each one hundred dollars ($100) of the premiums paid to any company not authorized to do business in this state.

Section 672. KRS 304.4-030 is amended to read as follows:

Each domestic mutual insurer shall file with the ***Department of*** Revenue[~~ Cabinet~~] each year by March 1, a report showing the premiums paid by it during the preceding calendar year to all reinsurers, and shall accompany such report with payment of a tax of two percent (2%) of the amount of premiums so paid to insurers not authorized to transact business in this state at the time such reinsurance was so ceded.

Section 673. KRS 304.10-180 is amended to read as follows:

(1) Each broker shall pay the following taxes:

(a) A tax at the rate of three percent (3%) on the premiums, assessments, fees, charges, or other consideration deemed part of the premium as defined in KRS 304.14-030, on surplus lines insurance subject to tax transacted by him or her with unauthorized insurers during the preceding calendar quarter as shown by his or her quarterly statement filed with the commissioner in accordance with KRS 304.10-170. The tax shall not be assessed on the premium surcharge tax, the local government premium tax, or any other state or federal tax. The tax shall be remitted to the commissioner within thirty (30) days of the end of each calendar quarter. When collected the tax shall be credited to the insurance regulatory trust fund, as established by KRS 304.2-400;

(b) The premium surcharge tax, to be remitted to the Kentucky ***Department of*** Revenue[~~ Cabinet~~], in accordance with KRS 136.392; and

(c) The local government premium tax, to be remitted to the appropriate city, county, or urban-county government taxing authority, in accordance with KRS 91A.080.

(2) If a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

Section 674. KRS 304.13-011 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) A "market" is the interaction between buyers and sellers consisting of a product market component and a geographic

market component. A product market component consists of identical or readily substitutable products including but not limited to consideration of coverage, policy terms, rate classifications, and underwriting. A geographic market component is a geographical area in which buyers have a reasonable degree of access to insurance sales outlets. Determination of a geographic market component shall consider existing market patterns.

(2) "Supplementary rating information" includes any manual or plan of rates, classification, rating schedule, minimum premium, policy fees, rating rules, or any other similar information needed to determine the applicable rate or premium. This shall include underwriting rules, but only to the extent necessary to determine the rate or premium that will be applicable to a risk should the insurer decide to provide coverage. This does not include guidelines that relate to the selection of those risks that are acceptable to an insurer.

(3) "Supporting information" is the experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer, the interpretation of any other data relied on by the filer, descriptions of methods used in making the rates, and any other information required to be filed by the commissioner.

(4) "Personal risks" means homeowners, tenants, private passenger nonfleet automobiles, mobile homes, and other property and casualty insurance for personal, family, or household needs.

(5) "Commercial risks" are any kinds of risks that are not personal risks.

(6) "Joint underwriting" is a voluntary arrangement established to provide insurance coverage for a risk pursuant to which two (2) or more insurers jointly contract with the insured at a price and under policy terms agreed on between the insurers.

(7) A "pool" is a voluntary arrangement, other than by a contract of reinsurance, established on a general and continuing basis pursuant to which two (2) or more insurers participate in the sharing of risks on a predetermined basis. A pool may operate through an association, syndicate or other pooling agreement.

(8) A "residual market mechanism" is an agreement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance that may be afforded applicants who are unable to obtain insurance through ordinary methods.

(9) An "advisory organization" is any entity, including its affiliates or subsidiaries, which either has two (2) or more member insurers or is controlled either directly or indirectly by two (2) or more insurers and which assists insurers in ratemaking related activities. Two (2) or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer for purposes of this definition.

(10) A "competitive market" is a market that has not been found to be noncompetitive pursuant to KRS 304.13-041 and for which no such order is in effect.

(11) A "noncompetitive market" is a market for which there is an order in effect pursuant to KRS 304.13-041 that a reasonable degree of competition does not exist.

(12) "Trending" is any procedure for projecting developed losses to the average date of loss, or premiums or exposures to the average date of writing, for the period during which the policies are to be effective.

(13) "Expenses" are those portions of any rate attributable to acquisition, field supervision, and collection expenses, general expenses, and premium taxes, licenses, and fees.

(14) "Profit" is the portion of any rate attributable to funds needed for growth, contingencies, and return to stockholders.

(15) "Pure premium" means the loss cost per unit of exposure excluding all loss adjustment expenses.

(16) "Classification system" or "classification" means the process of grouping risks with similar risk characteristics so that differences in cost may be recognized.

(17) "Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to their ultimate anticipated value.

(18) "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(19) "Form provider" means a person who prepares, files, and distributes policy contract forms and endorsements and consults with members, subscribers, customers, or others relative to their use and application, but is not an advisory organization as defined in this subtitle.

(20) "Loss adjustment expenses" means the expenses incurred by the insurer in the course of settling claims.

(21) "Prospective loss costs" means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and are based on historical aggregate losses or output from simulation models and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time. Loss costs, derived in part or entirely upon output form simulation models, must be approved by the commissioner before they become effective.

(22) "Rate" means the expected value of the future cost of insurance per exposure unit which accounts for the treatment of losses, expenses, and profit prior to any application of individual risk variations based on loss or expense considerations, but does not include minimum premium.

(23) "Special assessments" means guaranty fund assessments, residual market mechanism assessments, and other similar assessments which are included in ratemaking. Special assessments shall not be considered as either expenses or losses. Additional charges collected by the insurer and returned to a governmental agency on behalf of an insured are not special assessments. Examples of these additional charges include, but are not limited to, the special fund charge for workers' compensation imposed by KRS Chapter 342, local government premium tax imposed by KRS 91A.080, and the ***Department of*** Revenue[~~ Cabinet~~] surcharge imposed by KRS Chapter 136.

(24) "Statistical agent" means an entity that has been licensed by the commissioner to collect statistics from insurers and provide reports developed from these statistics to the commissioner for the purpose of fulfilling the statistical reporting obligations of those insurers under this chapter.

Section 675. KRS 304.49-220 is amended to read as follows:

(1) Every captive insurer holding a certificate of authority under KRS 304.49-010 to 304.49-230 shall return to the ***Department of*** Revenue[~~ Cabinet~~] a statement under oath of all premium receipts on business written by the captive insurer during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of four-tenths of one percent (0.4%) on the first twenty million dollars ($20,000,000), and three-tenths of one percent (0.3%) on the next twenty million dollars ($20,000,000), and two-tenths of one percent (0.2%) on the next twenty million dollars ($20,000,000), and seventy-five thousandths of one percent (0.075%) on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurer during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(2) Every captive insurer holding a certificate of authority under KRS 304.49-010 to 304.49-230 shall return to the ***Department of*** Revenue[~~ Cabinet~~] a statement under oath of all assumed reinsurance premium receipts during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of two hundred twenty-five thousandths of one percent (0.225%) on the first twenty million dollars ($20,000,000) of assumed reinsurance premiums, and one hundred fifty thousandths of one percent (0.150%) on the next twenty million dollars ($20,000,000), and fifty thousandths of one percent (0.050%) on the next twenty million dollars ($20,000,000), and twenty-five thousandths of one percent (0.025%) of each dollar thereafter. However, no reinsurance tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection (1) of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer, and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurer.

(3) If the aggregate taxes to be paid by a captive insurer calculated under subsections (1) and (2) of this section amount to less than five thousand dollars ($5,000) in any year, the captive insurer shall pay a tax of five thousand dollars ($5,000) for such year.

(4) Two (2) or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurer.

(5) For the purposes of this section, common ownership and control shall mean:

(a) In the case of stock corporations, the direct or indirect ownership of eighty percent (80%) or more of the outstanding voting stock of two (2) or more corporations by the same shareholder or shareholders; and

(b) In the case of mutual corporations, the direct or indirect ownership of eighty percent (80%) or more of the surplus and the voting power of two (2) or more corporations by the same member or members.

(6) In the case of a branch captive insurer, the tax provided for in this section shall apply only to the branch business of the company.

(7) The tax provided for in this section shall constitute all taxes collectible under the laws of Kentucky from any captive insurer, and the taxes imposed under this section shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district except as provided in KRS 136.320(6) and (7).

(8) The Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall annually distribute ten percent (10%) of the premium tax revenues collected pursuant to this section to the Department of Insurance for the regulation of captive insurance companies under KRS 304.49-010 to 304.49-230.

Section 676. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating

under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of September 1 preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall credit nineteen million dollars ($19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars ($19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars ($4,750,000).

(d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a group self-insurance association.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The Department for Employment Services, Cabinet for Workforce Development is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, group self-insurer, or insurance carrier shall provide any information and submit any reports the ***Department of*** Revenue[~~ Cabinet~~] or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provision of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 677. KRS 342.1223 is amended to read as follows:

(1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.

(2) The commission shall:

(a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;

(b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386, except that the funding commission may, at its discretion, invest in nondividend-paying equity securities;

(c) Report to the General Assembly at each even-numbered-year regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by the mechanism, including detailed information on the investment of funds and yields thereon;

(d) Recommend to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, changes deemed necessary in the level of the assessments imposed in this chapter;

(e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, a proposed budget for the biennium beginning July 1 following the even-numbered-year regular session of the General Assembly;

(f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;

(g) Conduct periodic audits, independently or in cooperation with the Labor Cabinet or the ***Department of*** Revenue[~~ Cabinet~~], of all entities subject to the assessments imposed in this chapter; and

(h) Report monthly to the Committees on Appropriations and Revenue and on Labor and Industry its monthly expenditures of restricted agency funds and the nature of the expenditures.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including, but not limited to, the power:

(a) To sue and be sued, complain, or defend, in its name;

(b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and

(f) To make and promulgate administrative regulations.

(4) Notwithstanding the provisions of this chapter to the contrary, the Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management ***in the Office of the Controller within the Finance and Administration Cabinet*** rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of the funds.

(5) The commission shall be attached to the Labor Cabinet for administrative purposes only.

Section 678. KRS 342.1224 is amended to read as follows:

(1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the Labor Cabinet, the secretary of the Cabinet for Economic Development or a designee, the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet, and four (4) members who shall be appointed by the Governor.

(2) The four (4) appointed members shall include:

(a) One (1) member, selected from a list of three (3) submitted by the secretary of labor, who shall represent labor;

(b) One (1) member, selected from a list of three (3) submitted by the secretary for economic development, who shall represent employers, provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employees from insurance companies writing workers' compensation insurance in the Commonwealth;

(c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth; and

(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth.

(3) The members of the board of directors shall serve a term of four (4) years, except that the initial terms of the members shall be staggered as follows:

(a) The initial member appointed by the Governor to represent labor shall serve a term of one (1) year. Thereafter, such member shall serve a term of four (4) years;

(b) The initial member appointed by the Governor to represent employers shall serve a term of two (2) years. Thereafter, such member shall serve a term of four (4) years;

(c) The initial member appointed by the Governor to represent insurance companies shall serve a term of four (4) years. Thereafter, such member shall serve a term of four (4) years; and

(d) The initial member appointed by the Governor to represent self-insured employers shall serve a term of three (3) years. Thereafter, such member shall serve a term of four (4) years.

(4) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(5) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(6) Notwithstanding any other law, the Governor, pursuant to an executive order, may cause the employees of the commission to be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.

(7) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

(8) The board of directors of the Kentucky Workers' Compensation Funding Commission are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.

Section 679. KRS 342.447 is amended to read as follows:

(1) All funds collected by insurance companies from their insureds, prior to October 26, 1987, for assessments of the Kentucky Reinsurance Association or special fund taxes and assessments of the Kentucky ***Department of*** Revenue[~~ Cabinet~~] not previously paid, shall be paid in full by January 1, 1988, to the Kentucky Workers' Compensation Funding Commission.

(2) To ensure compliance with the provisions of subsection (1) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall conduct audits of insurance companies. The costs of such audits shall be borne by the Kentucky Workers' Compensation Funding Commission. The ***Department of*** Revenue[~~ Cabinet~~] may enter an agreement with the Department of Insurance for assistance in conducting such audits or it may hire additional auditors on a temporary basis. The audits shall commence within sixty (60) days from October 26, 1987, and shall be completed within six (6) months. The aggregate findings of such audits shall be presented to the ***commissioner***[~~secretary~~] of revenue, the commissioner of insurance, the Kentucky Workers' Compensation Funding Commission, and the Governor.

(3) If the audits reveal noncompliance with subsection (1) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall notify the affected party of such fact. The affected party shall remit the amount in question not later than thirty (30) days

following notification and the ***Department of*** Revenue[~~ Cabinet~~] shall institute a civil action in Franklin Circuit Court if remittance is not made within such thirty (30) day period.

(4) The failure of an insurance company to comply with the provisions of this section shall constitute grounds for the revocation by the commissioner of insurance of such entity's authority to write workers' compensation coverage in the Commonwealth.

(5) The ***Department of*** Revenue[~~ Cabinet~~] shall report to the commissioner of insurance the failure of any insurance company to comply with the provisions of this section and the commissioner shall institute revocation procedures of such entity's authority to write workers' compensation coverage in the Commonwealth.

(6) "Funds collected" as used in subsection (1) of this section shall mean all funds collected without reduction for credits, refund, or returns of any type made to insureds or group members after September 1, 1987.

Section 680. KRS 351.175 is amended to read as follows:

(1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.

(2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.

(3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars ($100) and a maximum of fifteen hundred dollars ($1,500). When the annual report of the licensee and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of the Department of Workers' Claims that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342, and a certification from the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] that the applicant is not a "delinquent taxpayer" as defined in KRS Chapter 131, are properly submitted to the department, the license shall be issued. The commissioner ***of the Department of Mines and Minerals*** or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of the Department of Workers' Claims, or upon receipt of notice from the ***commissioner***[~~secretary~~] of revenue that the licensee is a "delinquent taxpayer," as defined in KRS Chapter 131, the department shall forthwith revoke any license issued. Revocation of a license shall be an administrative function of the department. Appeal of the revocation of a license shall lie in the Fayette Circuit Court.

(5) The mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(6) The department shall be authorized to seek injunctive relief for any violation of this section.

(7) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the ***commissioner***[~~secretary~~] of revenue.

(8) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 681. KRS 353.205 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall submit to the department on or before September 1 of each year, beginning in 1995 for 1994 production data, statistics on crude oil as reported to the ***Department of*** Revenue[~~ Cabinet~~] under the crude oil excise tax requirements of KRS Chapter 137 and statistics on natural gas production as reported to the ***Department of*** Revenue[~~ Cabinet~~] under the natural resources severance tax requirements of KRS Chapter 143A.

(2) The department shall organize the information it receives from the ***Department of*** Revenue[~~ Cabinet~~] into a standard format, and shall make it available for public release no earlier than January 1 nor later than March 1 of the following year, with the exception of the first year, when data shall be made available by September 1, 1996. The information shall be open for public inspection and available for sale at the offices of the department. The department may allow the Kentucky Geological Survey to use the production information in ongoing research as soon as it is obtained from the ***Department of*** Revenue[~~ Cabinet~~], so long as the information is not released to the public before January 1 of the year after it is reported.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall submit to the department the oil and gas production data which was reported in years prior to 1995, and the department shall make this information available for public release when it has been processed.

Section 682. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

(2) "***Commissioner***~~[Secretary]~~" means the ***commissioner***~~[secretary]~~ of the ***Department of*** Revenue~~[Cabinet]~~ of the Commonwealth of Kentucky.

(3) "***Department***~~[Cabinet]~~" means the ***Department of*** Revenue~~[Cabinet]~~.

(4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130(11), broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.

(6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" means any transfer for consideration or gift.

(8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

Section 683. KRS 365.350 is amended to read as follows:

(1) The ***department***~~[cabinet]~~, or any person injured by any violation, or who may suffer injury from any threatened violation of KRS 365.260 to 365.380, may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin the violation or threatened violation. If a violation or threatened violation of KRS 365.260 to 365.380 shall be established, the court shall enjoin and restrain, or otherwise prohibit, the violations or threatened violation. In addition, the court shall assess in favor of the plaintiff and against the defendant the cost of the suit, including reasonable attorney's fees. It shall not be necessary that actual damages to the plaintiff be alleged or proved, but if alleged and proved, the plaintiff in the action, in addition to injunctive relief, the costs of the suit, and reasonable attorney's fees, shall be entitled to recover from the defendant the actual damages sustained by him.

(2) If no injunctive relief is sought or required, any person injured by a violation of KRS 365.260 to 365.380 may maintain an action for damages and the costs of suit in any court of general jurisdiction.

Section 684. KRS 365.370 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall promulgate administrative regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one (1) or more cost surveys for the state or trading area or areas as it defines. When each survey is made by or approved by the ***department***[~~cabinet~~], it may use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.

(2) The ***department***[~~cabinet~~] may, upon notice and after hearing, revoke or suspend any license issued under KRS 138.195 and the administrative regulations of the ***department***[~~cabinet~~] promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any administrative regulation adopted thereunder.

(3) All of the powers vested in the ***commissioner***[~~secretary~~] and ***Department of*** Revenue[~~ Cabinet~~] by the provisions of the cigarette tax law shall be available for the enforcement of KRS 365.260 to 365.380.

(4) Any person aggrieved by any decision, order, or finding of the ***Department of Revenue***[~~cabinet~~], suspending or revoking any license, may appeal to the Kentucky Board of Tax Appeals by filing a petition of appeal with the board in the manner and form and within the time and subject to the terms and conditions as the board shall by administrative regulation prescribe.

Section 685. KRS 365.390 is amended to read as follows:

(1) To provide for the enforcement of KRS 138.146 and KRS 365.260 to 365.380, every cigarette wholesaler licensed under KRS 138.195 shall pay an enforcement and administration fee to the ***Department of*** Revenue[~~ Cabinet~~] on a monthly basis for each package of twenty (20) cigarettes to which evidence of Kentucky cigarette tax was affixed during the month as required by KRS 138.146. The enforcement and administration fee to recover applicable costs shall be calculated annually by the ***commissioner***[~~secretary~~] of revenue who shall give notice thereof to licensed wholesalers who shall be liable for its payment. Payments to the ***Department of*** Revenue[~~ Cabinet~~] shall be made according to provisions of KRS 138.195 and shall be subject to the same penalties and interest as levied on Kentucky cigarette tax not paid on or before the due date.

(2) There is hereby created within the ***Department of*** Revenue[~~ Cabinet~~] a cigarette enforcement and administration account, which will be subject to the provisions of the restricted fund group, as provided in KRS 45.305, and all funds collected under subsection (1) of this section shall be credited thereto with only the expenses of the ***Department of*** Revenue[~~ Cabinet~~] related to the administration and enforcement of KRS 138.146 and KRS 365.260 to 365.380 to be paid therefrom.

(3) The enforcement and administration fee levied in subsection (1) of this section shall be deemed to be an additional cost to be included in the basic cost of cigarettes as defined in KRS 365.270.

Section 686. KRS 365.665 is amended to read as follows:

Any transient merchant desiring to transact business in any county in this state shall make application for and obtain a permit in each county in which the merchant desires to transact business at least ten (10) days prior to transacting business in the county. The application for permit shall be designed and distributed by the ***Department of*** Revenue[~~ Cabinet~~], shall be filed by the transient merchant with the county clerk, or the officer of an urban-county government having the responsibility for the issuance of business permits and licenses generally and shall include but not be limited to the following information:

(1) The name and permanent address of the transient merchant making the application, and if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation;

(2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than Kentucky, the date on which such corporation qualified to transact business as a foreign corporation in this state;

(3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of the proposed place of business;

(4) An estimate of the aggregate market value of any goods, wares or merchandise to be offered for sale during the permit period;

(5) A statement that the applicant has acquired all other required city, county and state permits and licenses;

(6) The applicant's sales and use tax permit number or temporary vendor's registration number, and the Social Security numbers, of all salesmen employed by the applicant, or representing the applicant, in the transaction of business in the Commonwealth of Kentucky;

(7) The name and permanent address of the transient merchant's registered agent or office; and

(8) Evidence of security as outlined in KRS 365.680. The absence of any of the above information shall result in the denial of the permit by the county clerk.

Section 687. KRS 365.670 is amended to read as follows:

The county clerk shall forward a copy of each approved application to the ***Department of*** Revenue[~~ Cabinet~~] and to the office of the Attorney General within ten (10) days of approval.

Section 688. KRS 369.118 is amended to read as follows:

(1) Except as otherwise provided in KRS 369.112(6), each governmental agency of this state, in compliance with standards

established by the ***Commonwealth Office of***[~~Governor's Office for~~] Technology, shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(2) To the extent that a governmental agency uses electronic records and electronic signatures under subsection (1) of this section:

(a) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology, giving due consideration to security, may specify the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(b) If electronic records must be signed by electronic means, each governmental agency, giving due consideration to security, may specify the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(c) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology and the Department for Libraries and Archives, giving due consideration to security, may specify control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(d) Each governmental agency, giving due consideration to security, may specify any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(3) Except as otherwise provided in KRS 369.112(6), KRS 369.101 to 369.120 does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

Section 689. KRS 369.119 is amended to read as follows:

The ***Commonwealth Office of***[~~Governor's Office for~~] Technology, which adopts standards pursuant to KRS 369.118(2)(a), may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

Section 690. KRS 387.025 is amended to read as follows:

(1) Any interested person or entity may petition the District Court for the appointment of a guardian or limited guardian for an unmarried minor.

(2) Any interested person or entity may petition the District Court for appointment of a conservator for a minor who owns real or personal property, or both, requiring management or protection or who has or may have business interests that may be jeopardized or prevented by minority, or who needs a conservator to settle or compromise claims.

(3) The petition for appointment shall set forth the following:

(a) The name and address of the minor;

(b) The date of birth of the minor;

(c) The name and address of the minor's spouse, if any;

(d) The names and addresses of the minor's parents, or if the minor has no living parent, the names and addresses of the minor's adult next of kin;

(e) The name and address of the individual or facility having custody of the minor;

(f) The facts and reasons supporting the need for a guardianship, limited guardianship, or conservatorship for the minor;

(g) A description and approximation of the value of the minor's real and personal property and other financial resources, including government benefits, insurance entitlements, and anticipated yearly income;

(h) The name and address of the petitioner;

(i) The name and address of the petitioner's attorney, if any; and

(j) The name and address of the person or entity desiring appointment as guardian, limited guardian, or conservator.

(4) The petition shall be accompanied by a verified application of the person or entity desiring appointment as guardian, limited guardian, or conservator. The application shall set forth the following:

(a) Name, address, and age of the applicant;

(b) The applicant's relationship to the minor, if any;

(c) Whether or not the applicant has ever been convicted of a crime; and

(d) The applicant's qualifications to serve as guardian, limited guardian, or conservator.

(5) A duplicate copy of the petition and application shall be mailed by the clerk to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~]. The District Court shall appoint a time for hearing the petition and application. Notice

of the time and place of the hearing shall be given not less than five (5) days prior to the hearing to the minor, if the minor is more than fourteen (14) years of age, and to each of the persons or entities required to be named in the petition. Proof of notice shall be made in accordance with the provisions of KRS 395.016. Notice may be waived as provided in KRS 395.016.

Section 691. KRS 424.260 is amended to read as follows:

(1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than twenty thousand dollars ($20,000) without first making newspaper advertisement for bids.

(2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than twenty thousand dollars ($20,000), the fiscal court requirement shall prevail.

(3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the ***Office***~~[Division]~~ of Material and Procurement Services ***in the Office of the Controller within the Finance and Administration Cabinet*** or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.

(b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.

(4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

(5) The provisions of subsection (1) of this section shall not apply for the purchase of wholesale electric power for resale to the ultimate customers of a municipal utility organized under KRS 96.550 to 96.900.

Section 692. KRS 438.335 is amended to read as follows:

The Department of Agriculture shall carry out the provisions of KRS 438.305 to 438.340 as they relate to educating the public and sellers of tobacco products about provisions and penalties of KRS 438.305 to 438.340. The Department of Agriculture shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the ***Department of*** Revenue~~[Cabinet]~~ from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of these education efforts.

Section 693. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property.

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not such sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report or form issued or prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and required to be filed with the ***Department of*** Revenue [~~Cabinet~~] as prescribed by law.

Section 694. KRS 42.019 is amended to read as follows:

(1) The Division of Historic Properties established by ***Section 17 of this Act***[~~KRS 42.027~~] shall be responsible for overseeing the management and preservation of state-owned historic properties including, but not limited to, the Executive Mansion, Old Governor's Mansion, Vest Lindsey House, Berry Hill, State Capitol, and Henry Clay Law Office. In addition, the division shall be responsible for maintaining state-owned furniture, china, silver, and art works and the care, display, inventory, conservation, restoration, and storage of any state-owned item of historical significance.

(2) The Department of Parks and the Kentucky Horse Park may advise and consult the Division of Historic Properties in the operation, maintenance, restoration, conservation, and inventory of the state's shrines and museums.

(3) The director of the Division of Historic Properties shall serve as state curator pursuant to KRS 11.026. The director may employ the personnel and assemble the records and files necessary to perform the duties, responsibilities, and functions of the office.

Section 695. The following KRS section is repealed:

67A.884 Assistance agreement with Kentucky Pollution Abatement Authority.

Section 696. In order to reflect the reorganization effectuated by this Act, the reviser or statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 697. Any provision of law to the contrary notwithstanding, the General Assembly hereby confirms the portion of the Governor's Executive Order 2004-723, dated July 9, 2004, relating to the Finance and Administration Cabinet and the abolishing of the Revenue Cabinet to the extent it is not otherwise confirmed or superseded by this Act.

Senator Westwood moved to adopt **SR 39**. Agreed.

SR 39 is as follows:

SR 39, A RESOLUTION honoring the Beechwood High School Football Tigers, 2004 KHSAA Class A Football State Champions.

WHEREAS, on the afternoon of December 3, 2004, the Beechwood Tigers won the 2004 KHSAA Class A football championship by defeating the Danville Admirals 23-7 at Papa John's Cardinal Stadium in Louisville; and

WHEREAS, with their victory securing the school's ninth state football title, Beechwood returned to the historical prominence they had enjoyed through many years of gridiron success, having won an astounding seven state titles during the decade of the 90s; and

WHEREAS, Beechwood was led on the field by senior running back Dustin Menetrey, whose 187 rushing yards on 34 carries earned him game MVP honors; by Junior Quarterback Patrick Muth, who threw for two touchdowns and ran for another score; and by Junior running back Eric Sawyer, who caught both of Muth's scoring passes; and

WHEREAS, the unsung heroes of the Tigers' victory were offensive linemen Matt Lussi, Franklin Knuckles, Pete Petroze, Robbie Janning, and Jared Pike, who dominated the line of scrimmage and allowed Tiger runners to rush for 250 yards on 47 carries, an average of over 5 yards per carry; and

WHEREAS, the stout defense of Beechwood, which limited Danville to just 158 total yards while intercepting two passes and recovering two Admiral fumbles, was led by linebackers Mike Morenton, Kevin Spence, and Craig Harms and linemen Jordan McFauls, Evan Reilly, and Josh Carl; and

WHEREAS, Beechwood dominated opponents during the year, losing just one game by a single point to a much larger school and outscoring opponents by an average of over 30 points a game; and

WHEREAS, the Beechwood Tigers were led to the championship by Head Coach Mike Yeagle, who during an amazing 15 year run has compiled a record of 163 wins against only 20 losses and 8 state championships; and

WHEREAS, the talent, perseverance, and dedication of the Beechwood High School Tigers have thrilled football fans not only in Northern Kentucky, but throughout the Commonwealth, and the results of their efforts will be written indelibly in the annals of football history in the Bluegrass State;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, do offer their heartiest congratulations to the Beechwood High School Tigers football team, head coach Mike Yeagle and his staff, and Principal Glen Miller on winning the 2004 KHSAA Class A football Championship, and wish the school, coaches, and players continued success in future endeavors.

Section 2. The Clerk of the Senate is directed to send a copy of this Resolution to Glen Miller, Principal, Beechwood High School, 54 Beechwood Road, Fort Mitchell, Kentucky 41017.

Senator Kelly moved that **SB 39** be returned to the Committee on Transportation and that **SB 37, SB 38, SB 40, SB 41, SB 45, SB 49, SB 46, SB 47** retain their place in the Calendar for a second reading, to then be returned to their committees of origin. Agreed.

Recess

Senator Kelly moved to recess the Senate for ten minutes for a Committee on Committees meeting in Room 327. Agreed.

The President called the Senate to order.

Report of Committees

The Committee on Committees appointed the following to a Senate Standing Committee: Senators McGaha and Stine, Subcommittee on Energy.

Reference of Bills and Resolutions

The Clerk reported the following bills and resolutions had been referred by the Committee on Committees:

Agriculture and Natural Resources: **SB 57**

Appropriations and Revenue: **SB 49, SB 51**

Health and Welfare: **SJR 34**

Judiciary: **SB 56**

Licensing, Occupations, and Administrative Regulations: **SCR 32**

Transportation: **SB 52, SB 59**

To Senate Floor: **SR 33, SR 36**

Recess

Senator Kelly moved to recess the Senate until 7:00 p.m. to reconvene in the House Chamber for a Joint Session of the General Assembly for the State of the Commonwealth address by the Governor and upon termination of the Joint Session, to adjourn until 2:00 p.m., Wednesday, February 2, 2005. Agreed.

Joint Session

The Senate entered the House of Representatives with Speaker of the House Richards presiding. Representative Adkins moved that privileges of the floor be granted to all constitutional officers and invited guests. Agreed.

Representative Adkins moved that the House resolve into a Joint Session of the General Assembly. Agreed.

The Chief Doorkeeper announced the arrival of the President of the Senate. The Speaker vacated the Chair and President Williams assumed the Chair and called the Joint Session of the General Assembly to order.

Prayer by Reverend Bob Russell, Southeast Christian Church, Louisville.

The Pledge of Allegiance to the Flag was given.

Representative Adkins moved to dispense with the roll call. Agreed.

The Chief Doorkeeper announced the Governor of Kentucky. The Committee appointed to Wait upon the Governor, together with a like committee from the House, arrived with Governor Ernie Fletcher.

Governor Fletcher took his place at the clerk's desk and addressed the General Assembly, as follows:

First Lady, Lieutenant Governor Pence, President Williams and Speaker Richards, Legislators, Constitutional Officers, Justices and my fellow Kentuckians, it is a time-honored tradition that brings me here tonight to reflect upon our great Commonwealth.

I want to first recognize Representative Bruce as the longest serving member. He could not be here.

We are thankful he is now home from the hospital and watching us tonight.

The people of Kentucky vest in us the responsibility of determining the character of state government. Only those who have served in this chamber know the sense of that responsibility.

Every challenge we are willing to confront in a humble, bipartisan manner is an opportunity for progress -- a moment that can make us stronger, healthier, more prosperous and more united.

Let me congratulate and welcome the new members of the General Assembly and Justice Scott. Your service is an esteemed duty you have well earned.

Candor acknowledges that partisanship inflamed by election year politics characterized this past year.

We did have a record turnout on Election Day, as Secretary of State Trey Grayson will attest. Participation was so high in fact, that 39 Senators showed up for work in January.

On a more serious note let me welcome Senator Julian Carroll our 52nd Governor and former Speaker of the House back to these chambers.

This is a new year and we have a new opportunity. We are all Kentuckians and we all want Kentucky to flourish and prosper.

We are especially proud of Kentucky's National Guard and the other armed services. We currently have 1,532 National Guard soldiers serving overseas whose dedication allowed historic elections in Iraq this past weekend.

With honor and bravery, these sons and daughters fight for our safety by helping spread the God-given right of freedom. In the gallery tonight are Captain Adrian Wheeler, Master Sergeant Jonathan Rosa and Staff Sergeant Kelly Reeves. All have returned from Iraq where they served valiantly.

Please join me in saluting them and all our troops.

Let me also recognize Bill Hintze for his decades of service in the state budget director's office. He will be retiring soon. Bill, thanks for your devotion and service.

A year ago, I reported that the state of the Commonwealth was "as challenging as it has ever been in the modern age."

Yet, in many ways we have had a good year.

Our economy is recovering. The unemployment rate is lower at 4.5 percent.

The test scores of our students continue to improve.

We established the Office of Drug Control Policy - and let me recognize Lieutenant Governor Pence for his outstanding work along with Attorney General Stumbo.

We launched Recovery Kentucky, a program to establish ten rehabilitation centers across our state to combat the addiction crisis.

We saved over 74 million dollars in the transportation cabinet alone.

We reduced the number of cabinets from fourteen to nine, and with your help, passing the appropriate reorganization bills, we will complete that effort.

We cancelled over 2000 state credit cards and lowered the annual credit limit by 285 million dollars.

We implemented many other cost-saving ideas, some of which came from state employees themselves, to save millions of dollars and to fulfill our promise to operate government more efficiently.

And the people have chosen a new brand for our state, "Unbridled Spirit".

As we enter a new year, we are at a crossroad.

One way is the timid status quo, with a budget that bridles our future.

The other way is a courageous course that unbridles opportunity and prosperity. But to forge that path we must pass tax modernization.

There is another choice – doing nothing – but that is not an option.

As we all learned in high school civics, a Governor doesn't have a vote when it comes to passing a budget. And Judge Crittenden recently opined that a Governor doesn't have the authority to spend money the General Assembly hasn't appropriated.

Although I disagree and believe that the inaction of one branch of government should not prevent another from fulfilling its responsibilities, we will respect the orders of the judiciary.

To that end, I have asked my administration to begin reviewing the steps which may be necessary to comply with the Courts' order.

I sincerely hope that a government shutdown will not be required, but that's in your hands.

Tonight, I present to you two options.

The budget I present is based on our current tax code, a system rooted in an economy nearly 100 years old.

This is not the path I prefer, but if you cannot summon the will to reform our taxes then it is the path we are destined to take.

This budget only provides for the immediate needs for Medicaid and healthcare for our teachers and employees.

This budget allocates 57 percent of new anticipated revenue to education, 30 percent to Medicaid, 2 percent to Corrections and 11 percent to cover state workers and retirees under House Bill 1.

Let me now introduce the First Lady Glenna.

Within this budget, I have again included Read to Achieve, an effort led by the First Lady along with Senators Kelly and Westwood.

It also begins my effort to make our teacher's pay competitive by providing 26 million dollars in addition to the two percent raise for all state workers. This money will fund a flexible compensation plan aimed at retaining and recruiting quality teachers.

This is a priority of the Prichard Committee and I share this worthwhile goal.

I'm pleased to have Elaine Farris, Superintendent of Shelby County Schools, Kentucky's first African-American Superintendent and Jo Biehle, a nationally certified, Miliken award winning teacher with us here tonight.

Please join me in recognizing them.

This budget provides for a 20 percent increase for state and teacher health insurance, keeping the current benefits of HB1 intact for an additional 6 months under a self insured structure.

We will work with your Blue Ribbon Commission to address the rising, unsustainable costs.

Additionally, by expanding the use of coal severance tax to education and infrastructure, we can better serve the future of those families in some of our poorest counties.

I propose a three year pilot program where we will invest a portion of the economic development severance money in the 24 lowest performing school districts in coal counties – recognizing that education is an essential element for economic development.

We will help secure a solid foundation for life-long learning by utilizing early childhood health and readiness assessments, technology, targeted intervention, longitudinal student tracking and end of course assessments for students and professional development for educators.

To ensure efficiency and public safety, I will fund those projects that update our neglected information technology and early warning systems.

I have also included 350 million dollars of road bonds and 150 million dollars of federal Garvey bonds to help meet our six year road plan needs.

The budget also calls for almost 2 million dollars annually for state trooper training stipends, because they deserve it.

I am pleased to have Trooper Rick Conn in the gallery tonight. Though he would deny it, Trooper Conn is a true hero who proved himself by helping to save a mother and her child from a burning house after he himself had already been severely burned by the fiery explosion.

Please join me in saluting Trooper Conn and all our law enforcement personnel.

I've expanded Kentucky's newborn screening process to include testing for 29 different illnesses, bringing Kentucky in line with the March of Dimes' national standard.

But, the budget based upon our current tax system does not contain the general fund career building projects at our universities that you and I want and that were contained in last year's budget.

Last year, in the House budget projects were included without debt service funding.

We cannot issue bonds or begin projects without appropriated debt service and we cannot afford future debt without modernizing our tax system.

Some will say that I could have included other projects that would not require general fund money. They are right and I hope we can agree to build those projects.

But I am cautious about our bond rating because our reserves are only seven-tenths of 1 percent under this budget.

This budget will allow us to continue government services, but it is not the vibrant vision we share for Kentucky.

Currently, too many of our best and brightest college graduates leave Kentucky every year. We raise, train and educate them only to benefit employers in other states.

My vision for Kentucky is a Commonwealth where there is so much economic opportunity, and our quality of life is so high, that people who are born here can stay here, and people who aren't fortunate enough to be born in Kentucky, can look forward to locating here.

I believe the only responsible way to build a brighter future is to bring our outdated tax system into the 21st Century.

Why? Because our existing tax code doesn't attract or keep our young talent in Kentucky.

It is unreliable, unfair, and in some parts unconstitutional.

It is a tax system that has brought us to a point where the number of Medicaid recipients exceeds the number of students in our public schools.

And it is holding us back to the point where our per capita income is 20 percent below the national average.

Think of what a disaster that spells for the future and what burden that will place on the next generation.

Our current tax system will not provide tomorrow's support for education and healthcare.

It will not substantially reduce the poverty level.

The current telecom tax structure was designed in the era of the crank phone and Alexander Graham Bell. That was even before Rep Bruce was first elected.

Our corporate license tax was established in 1906 - eleven years before the Soviet Union was established. Superpowers may come and go, but Kentucky's tax code is apparently forever.

Let me outline some of the specifics of our JOBS for Kentucky Plan.

First, support of this plan is consistent with the tax pledge many have taken.

It is tax neutral over the period required for full implementation. That means that tax increases are offset by tax reductions.

Within that period there is positive revenue for this budget cycle due to the timing of the closing of loopholes and implementation of the cigarette tax.

All the while, the burden on small Kentucky businesses is reduced and loopholes for larger out-of-state businesses are closed.

That early boost will help us bridge the challenges we currently face.

My plan will cut income tax rates on virtually all working Kentuckians, attract high-quality businesses and bring more stability to the budgeting process.

Most importantly, my plan will BRING JOBS TO KENTUCKY - more than 10,000 additional jobs by its first full year of implementation.

That's 3000 more jobs than last year's plan because we reduce the income tax levels.

This plan will lower the individual income tax rate by 9 percent, and 99 percent of working Kentuckians will have more take home pay.

The need for lower income tax rates became obvious during the 17 forums we held across the state.

From our Hopkinsville forum, Senator Pendleton and Rep. Carr will tell you that when you leave Fort Campbell, you turn right to Tennessee or left to Kentucky.

Unfortunately, over eighty percent of the soldiers turn right and choose Tennessee instead of Kentucky as their home.

Why? It isn't for the barbecue.

Tennessee doesn't have an income tax.

We will attract more people to Kentucky by lowering our income tax rate.

In fact, lowering the income tax rate is the single most important thing we can do to create opportunity.

If you don't believe me, just ask the soldiers who go home to Tennessee

My plan removes 211,000 filers, representing 485,000 Kentucky family members from the tax rolls altogether.

We tax the poor more than any state. It is time to stop.

Our current system encourages out of state companies doing business here to move their profits, operations, and most importantly, jobs, out of state to avoid paying Kentucky taxes.

In 1994 you passed a good law for small businesses that allowed the formation of limited liability companies. The law never anticipated that large out of state companies would use that structure as a way of avoiding corporate tax.

These loopholes are neither fair nor responsible.

By requiring out-of-state companies to pay their fair share, the tax burden for Kentuckians is reduced.

Other portions of the current tax code have been declared unconstitutional. We fix those problems.

I propose a fair, simple and uniform tax on all communications services, holding local governments and school districts harmless.

We will continue to work with you to ensure that a level playing field exists for companies providing these like services.

Raising the cigarette tax is also a matter of fairness and sound public policy. A tax on cigarettes is purely voluntary. If you don't buy cigarettes, you don't pay the tax.

Kentucky has the highest incidence of smoking in the country. Nationally we rank first in deaths from cancer and fourth from heart disease.

And it's undeniable that smoking contributes to increased health insurance and Medicaid costs.

Raising the cigarette tax will send a healthier message to our children.

Frankly, the support for a cigarette tax at our forums surprised me. There was overwhelming support for greater than a 50 cent increase.

My plan starts at 34 cents a pack and establishes a formula that will allow it to increase at a competitive rate with surrounding states.

I also propose to extend the sales tax to packaged alcohol. When you buy a glass of wine in a restaurant you pay sales tax, but when you buy a bottle of wine at the store you do not. We are simply harmonizing that sales tax.

The tax plan I offer tonight includes incentives to help promote education and economic growth.

I'm proposing a tuition tax credit of up to 500 dollars for each student going to Kentucky colleges and universities. This will help working families cope with the rising cost of tuition.

It includes Rep. Damron's "Back to School Sales Tax Holiday"

I've included deductions to help small businesses take advantage of federal health savings accounts.

Additionally, several other incentives are included: a Kentucky enterprise initiative to give tax credits for hard construction and research and development costs, an equine breeder incentive development program to grow our equine industry and keep Kentucky the Horse Capital of the World.

I've also proposed Brownfield credits, clean coal technology credits, environmental stewardship credits and alternative fuel credits. This plan promotes economic development while being environmentally responsible.

This plan also allows for historic preservation credits to help us keep our heritage.

I have now outlined a budget without tax modernization as well as most of the details of my tax plan.

My preference is that you pass a budget with the bridge supplied by tax modernization.

It is a better path that allows us to invest more for today and build more for tomorrow.

With the passage of the JOBS for Kentucky Plan you will have more revenue for the budget you are charged to enact.

I propose that we invest the extra money to grow opportunity, build careers and strengthen education. I prefer and I believe Kentuckians will prefer this unbridled path.

This requires you to pass the tax modernization plan. The JOBS for Kentucky Plan provides more revenue for the current budget cycle without raising taxes and provides for dynamic growth as our economy grows in the years to come.

Let me be specific how I would like the extra money to be spent:

- 35 million dollars to primary and secondary education.

10 million dollars additional to our flexible teacher pay program for a total of almost 36 million dollars.

- An additional 10 million dollars for a total of 22 million dollars to post-secondary education to help restore the funding cuts they've suffered over the last few years.

- 26 million to our reserve fund along with additional funding of debt service, which allows us to maintain our bond rating while building pharmacy and research buildings at UK and U of L as well as 500 million dollars worth of other projects that will build careers and create opportunity all across this Commonwealth.

It is embarrassing that graduates from Northern Kentucky University receive their diploma in Ohio. We need an adequate place for NKU to host their special events. It will better serve those students and be an important tool for economic development.

Additionally as we move into advanced agriculture and natural product technology, I would like to encourage you to protect Phase I tobacco money for those purposes as we pay our farmers the Phase II money they are relying on. Our tax plan assumes this will happen.

I also propose 6.8 million dollars to increase the per diem by 3 dollars for our county jails. It is neither fair nor sustainable for us to ask our counties to keep our prisoners at below their cost.

The budget we can have under a more stable, modern tax system meets more needs.

Let me now thank Representative Jimmy Lee and Senator Julie Denton for their refreshing bipartisan work on one of our most daunting challenges for the years to come-our Medicaid program.

With their help we have begun the work to address the Medicaid crisis.

The pharmacy benefit alone will consume 820 million dollars of the 4.6 billion dollars we will spend on Medicaid this year.

We had 33,000 Medicaid recipients on twenty or more medications in a six month period. One individual received 108 separate medications per month.

As this demonstrates, we have a problem called "polypharmacy".

We're doing something about it.

In December, we modernized the processing of prescriptions to ensure that dangerous drug combinations were identified. The result is a safer, more cost effective Medicaid program.

We joined eight other states to form the National Medicaid Pooling Initiative saving over 38 million dollars a year.

We've asked pharmacists to do their part.

Now, I also call upon my fellow physicians, who treat Medicaid patients, to review the medications they are prescribing and resist the pressure to over prescribe. We cannot overcome this problem without your help.

Another major danger to Kentucky's health care system is medical lawsuit abuse. The rising cost of medical liability insurance forces many talented doctors to leave Kentucky, jeopardizing quality of care.

We must have comprehensive reform to include independent boards for evaluating claims, tougher insurance oversight and a constitutional amendment that will allow reasonable caps.

Let me thank President Williams for his leadership on this issue.

Again, I ask you to pass the constitutional amendment that will allow voters to choose to keep their doctors in Kentucky.

Tonight I have presented two options to you, as I see them.

One is to continue to do what we've always done, knowing we'll get what we've always gotten.

Though the overwhelming need for a budget compels me to offer it, I do not prefer the type of budget that we must adopt without tax modernization.

History is filled with epic moments where a state is faced with enormous obstacles or daunting challenges.

This is such a moment.

Allow me to say this again, every challenge we are willing to confront in a humble, bipartisan manner is an opportunity for progress -- a moment that can make us stronger, healthier, more prosperous and more united.

In the remaining 25 days of this session, I challenge you to take the plans I have presented here, debate them, improve them if you will and present to me a budget and JOBS for Kentucky plan so our Commonwealth may be stronger.

I am optimistic about our future because I know our people are good, our hope is unwavering, our faith is unshakable and our spirit is unbridled.

Thank you and God bless and may God Bless Kentucky.

President Williams recognized the House Floor Leader. Representative Adkins moved that the Joint Session of the General Assembly be dissolved. Agreed.

Adjournment

The Senate adjourned until 2:00 p.m., Wednesday, February 2, 2005.

WEDNESDAY, FEBRUARY 2, 2005

SIXTH LEGISLATIVE DAY

The Senate was called to order by President Williams.

Prayer by the Reverend Alan Sorem, South Frankfort Presbyterian Church, Frankfort.

The Pledge of Allegiance to the Flag was given.

The roll was called. All senators were present except Senator Stivers.

Senator Kelly moved to grant leave to the absent senator. Agreed.

Senator Kelly moved to approve the Journal of Tuesday, February 1, 2005. Agreed.

Calendar

SB 37, **SB 38**, **SB 40**, **SB 41**, **SB 45**, **SB 46**, **SB 47**, and **SB 49** taken from the Calendar and ordered read at length for the second time. Senator Kelly moved that they be read by title only. Agreed by a majority of the members elected. Returned to the committees of origin pursuant to a motion of February 1, 2005.

Report of Committees

The Committee on State and Local Government reported **SB 13**, **SB 18**, and **SB 43** with Committee Substitute with expression of opinion that same should pass. Read at length for the first time and placed in the Calendar.

SB 13 is as follows:

SB 13, AN ACT relating to levy and recall of taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.017 is amended to read as follows:

(1) ***As used in this section, "local governmental entity" includes a county fiscal court and legislative body of a city, urban-county government, consolidated local government, charter county government, or other taxing district.***

(2) (a) That portion of a tax rate levied by an ordinance, order, resolution, or motion of a ***local governmental entity or district board of education***~~[county fiscal court, district board of education, or legislative body of a city, urban-county government, consolidated local government, or other taxing district]~~ subject to recall as provided for in KRS 68.245, 132.023, 132.027, and 160.470, shall go into effect forty-five (45) days after its passage.

(b) ~~[If]~~During the forty-five (45) days next following the passage of the ***ordinance,*** order, resolution, or motion, ***any five (5) qualified voters who reside in the area where the tax levy will be imposed may commence petition proceedings to protest the passage of the ordinance, order, resolution, or motion by filing with the county clerk an affidavit stating that they constitute the petition committee and that they will be responsible for circulating the petition and filing it in the proper form within forty-five (45) days from the passage of the ordinance, order, resolution, or motion. The affidavit shall state their names and addresses and specify the address to which all notices to the committee are to be sent. Upon receipt of the affidavit, the county clerk shall:***

1. At the time of filing of the affidavit, notify the petition committee of all statutory requirements for the filing of a valid petition under this section;

2. At the time of the filing of the affidavit, notify the petition committee that the clerk will publish a notice identifying the tax levy being challenged and providing the names and addresses of the petition committee in a newspaper of general circulation within the county, if such publication exists, if the petition committee remits an amount equal to the cost of publishing the notice determined in accordance with the provisions of KRS 424.160 at the time of the filing of the affidavit. If the petition committee elects to have the notice published, the clerk shall publish the notice within five (5) days of receipt of the affidavit; and

3. Deliver a copy of the affidavit to the appropriate local governmental entity or district board of education.

(c) The petition shall be filed with the county clerk within forty-five (45) days of the passage of the ordinance, order, resolution, or motion. All papers of the petition shall be uniform in size and style and shall be assembled in one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the printed name, street address, and Social Security number or birthdate of the person signing. The petition shall be~~[a petition]~~ signed by ***at least***~~[a number of registered and qualified voters equal to]~~ ten percent (10%) of the ***number of registered and qualified*** voters voting in the last presidential election***, and residing in the area where the tax levy will be imposed.***

(d) Upon the filing of the petition with the county clerk,~~[is presented to the county clerk or his authorized deputy protesting against passage of the ordinance, order, resolution, or motion,]~~ the ordinance, order, resolution, or motion shall be suspended from going into effect until after the election referred to in subsection ***(3)***~~[(2)]~~ of this section ***is held, or until the petition is finally determined to be insufficient and no further action may be taken***

pursuant to paragraph (h) of this subsection.

(e) [~~When the petition is presented to~~]The county clerk[~~ or his authorized deputy, the officer~~] shall immediately notify the presiding officer of the appropriate ***local governmental entity or district board of education that the petition has been received and shall, within thirty (30) days of the receipt of the petition, make a determination of whether the petition contains enough signatures of qualified voters to place the ordinance, order, resolution, or motion before the voters***[~~fiscal court, district board of education, legislative body of a city, consolidated local government, urban-county government, or other taxing district, as the case may be. Each sheet of the petition shall contain the names, residence addresses, and Social Security numbers or dates of birth of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. The county clerk shall make the conclusive determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution~~].

(f) If the county clerk finds the petition to be sufficient, the clerk shall certify to the petition committee and the local governmental entity or district board of education within the thirty (30) day period provided for in paragraph (e) of this subsection that the petition is properly presented and in compliance with the provisions of this section, and that the ordinance, order, resolution, or motion levying the tax will be placed before the voters for approval.

(g) If the county clerk finds the petition to be insufficient, the clerk shall, within the thirty (30) day period provided for in paragraph (e) of this subsection, notify, in writing, the petition committee and the local governmental entity or district board of education of the specific deficiencies found. Notification shall be sent by certified mail and shall be published at least one (1) time in a newspaper of general circulation within the county containing the local governmental entity or district board of education levying the tax, or if there is no such newspaper, shall be posted at the courthouse door.

(h) A final determination of the sufficiency of a petition shall be subject to final review by the Circuit Court of the county in which the local governmental entity or district board of education is located, and shall be limited to the validity of the county clerk's determination. Any petition challenging the county clerk's final determination shall be filed within ten (10) days of the issuance of the clerk's final determination.

(i)[~~(b)~~] The ***local governmental entity or district board of education***[~~county fiscal court, district board of education, or legislative body of a city, urban-county government, consolidated local government, or other taxing district~~] may cause the cancellation of the election by reconsidering the ordinance, order, resolution, or motion and amending the ordinance, order, resolution, or motion to levy a tax rate which will produce no more revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 from real property. The action by the ***local governmental entity or district board of education***[~~county fiscal court, district board of education, legislative body of a city, urban-county government, consolidated local government, or other taxing district~~] shall be valid only if taken within fifteen (15) days following the date of the presentation of the petition.

(3)[~~(2)~~] (a) If an election is necessary under the provisions of subsection ***(2)***[~~(1)~~] of this section, the county fiscal court, legislative body of a city, urban-county government, consolidated local government, or other taxing district shall cause to be submitted to the voters of the county, district, consolidated local government, or urban-county at the next regular election, the question as to whether the property tax rate shall be levied. The question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election.[~~ The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect.~~]

(b) If an election is necessary for a school district under the provisions of subsection ***(2)***[~~(1)~~] of this section, the district board of education may cause to be submitted to the voters of the district in a called common school election not less than twenty (20) days nor more than thirty (30) days from the date the signatures on the petition are validated by the county clerk, or at the next regular election, at the option of the district board of education, the question as to whether the property tax rate shall be levied. If the election is held in conjunction with a regular election, the question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. ***The cost of a called common school election shall be borne by the school district holding the election.***

(c) In an election held under paragraph (a) or (b) of this subsection, the question shall be so framed that the voter may by his ***or her*** vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the ***ordinance,*** order, resolution, or motion shall not go into effect***. If a majority of the votes cast upon the question favor its passage, the ordinance, order, resolution, or motion shall become effective.***

(d) If the ordinance, order, resolution, or motion fails to pass pursuant to an election held under paragraph (a) or (b) of this subsection,[~~ and~~] the property tax rate which will produce four percent (4%) more revenues from real property, exclusive of revenue from new property as defined in KRS 132.010, than the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be levied without further approval by the ***local governmental entity or district board of education***[~~county fiscal court, district board of education, or~~

~~legislative body of a city, consolidated local government, urban-county government, or other taxing district, as the case may be. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect. The cost of a called common school election shall be borne by the school district causing the election to be held~~].

(4)[~~(3)~~] Notwithstanding any statutory provision to the contrary, if a ***local governmental entity or district board of education***[~~city, county, school district, or other taxing district~~] has not established a final tax rate as of September 15, due to the recall provisions of this section, KRS 68.245, 132.027, or 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all districts having a tax rate established by that date; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates by the remaining districts.

(5)[~~(4)~~] If a second billing is necessary, the collection period shall be extended to conform with the second billing date.

(6)[~~(5)~~] All costs associated with the second billing shall be paid by the taxing district or districts requiring the second billing.

Section 2. KRS 132.100 is amended to read as follows:

If[~~Whenever~~] the General Assembly ***enacts***[~~shall enact~~] any act pursuant to Section 171 of the Constitution as amended, classifying property and providing a lower rate of taxation on personal property than ***on***[~~upon~~] real property, the provisions of the act shall be subject to a referendum upon the written petition of qualified voters equal[~~ in number~~] to ***at least*** five percent (5%) of the votes cast in the state for ***a slate of***[~~ the~~] candidates for Governor ***and Lieutenant Governor*** at the last preceding regular election. The petition shall be filed with the Secretary of State not more than four (4) months after the final adjournment of the General Assembly that passed the act on which the referendum is demanded, and shall specify the act or the item, section or part of the act on which the referendum is demanded.[~~ Each sheet of~~] The petition shall ***be uniform in size and style and shall be assembled in one (1) instrument for filing. Each signature shall be executed in ink or indelible pen and shall be followed by the printed name, residence address, and Social Security number or date of birth***[~~contain the names~~] of legal voters[~~ in but one (1) voting precinct, and shall state the county and precinct. Each voter shall write his post office address opposite his name, and, in cities of the first, second or third class, his street address~~].

Section 3. KRS 160.485 is amended to read as follows:

(1) The imposition of license fees authorized hereby shall be by order or resolution of the fiscal court. There shall be no more than one (1)[~~ such~~] order or resolution passed in any one (1) calendar year. In the case of license fees required to be imposed pursuant to subsection (2) of KRS 160.484, the fiscal court shall make the order or resolution within ten (10) days following receipt of the first request which makes subsection (2) of KRS 160.484 effective.

(2) ***(a)*** The order or resolution of the fiscal court imposing license fees pursuant to subsections (1), (2), or (4) of KRS 160.484 shall go into effect ***forty-five (45)***[~~thirty (30)~~] days after its passage.

(b) [~~If ~~]During the ***forty-five (45)***[~~thirty (30)~~] days next following the passage of the order or resolution ***any five (5) qualified voters who reside in the county may commence petition proceedings to protest the passage of the order or resolution by filing with the county clerk an affidavit stating that they constitute the petition committee and that they will be responsible for circulating the petition and filing it in the proper form within forty-five (45) days from the passage of the order or resolution. The affidavit shall state their names and addresses and specify the address to which all notices to the committee are to be sent. Upon receipt of the affidavit, the county clerk shall:***

1. At the time of filing of the affidavit, notify the petition committee of all statutory requirements for the filing of a valid petition under this section;

2. At the time of the filing of the affidavit, notify the petition committee that the clerk will publish a notice identifying the tax levy being challenged and providing the names and addresses of the petition committee in a newspaper of general circulation within the county, if such publication exists, if the petition committee remits an amount equal to the cost of publishing the notice determined in accordance with the provisions of KRS 424.160 at the time of the filing of the affidavit. If the petition committee elects to have the notice published, the clerk shall publish the notice within five (5) days of receipt of the affidavit; and

3. Deliver a copy of the affidavit to the fiscal court and the impacted school districts.

(c) The petition shall be filed with the county clerk within forty-five (45) days of the passage of the order or resolution. All papers of the petition shall be uniform in size and style and shall be assembled in one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the printed name, street address, and Social Security number or birthdate of the person signing. The petition shall be[~~a petition~~] signed by ***at least ten percent (10%) of the number of***[~~a number of ~~]registered and qualified voters ***residing in the county and voting in***[~~equal to fifteen percent (15%) of the votes cast in the county for the office receiving the greatest total vote at~~] the last[~~ preceding~~] presidential election.[~~ is presented to the fiscal court protesting against passage of the order or resolution,~~]

(d) Upon the filing of the petition with the county clerk, the order or resolution shall be suspended[~~ from going into~~

~~effect~~] until after the election referred to in subsection (3) of this section ***is held, or until the petition is finally determined to be insufficient and no further action may be taken pursuant to paragraph (h) of this subsection***.

(e) ***The clerk shall immediately notify the fiscal court and the impacted school districts that the petition has been received and shall, within thirty (30) days of the receipt of the petition, make a determination of whether the petition contains enough signatures of qualified voters to place the order or resolution before the voters***[~~Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One (1) or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The board or boards of registration in the county shall give necessary and appropriate aid to the fiscal court so that the latter body may make the initial, but not conclusive, determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution~~].

(f) ***If the county clerk finds the petition to be sufficient, the clerk shall certify to the petition committee, the fiscal court, and the impacted school boards within the thirty (30) day period provided for in paragraph (e) of this subsection that the petition is properly presented and in compliance with the provisions of this section, and that the order or resolution levying the tax will be placed before the voters for approval.***

(g) ***If the county clerk finds the petition to be insufficient, the clerk shall, within the thirty (30) day period provided for in paragraph (e) of this subsection, notify, in writing, the petition committee, the fiscal court and the impacted school districts of the specific deficiencies found. Notification shall be sent by certified mail and shall be published at least one (1) time in a newspaper of general circulation within the county or if there is no such newspaper, shall be posted at the courthouse door.***

(h) ***A final determination of the sufficiency of a petition shall be subject to final review by the Circuit Court of the county and shall be limited to the validity of the county clerk's determination. Any petition challenging the county clerk's final determination shall be filed within ten (10) days of the issuance of the clerk's final determination.***

(3) ***Upon validation of the petition,***[~~Thereupon~~] the fiscal court shall submit to the voters of the county at the next regular election or called common school district election,[~~ either of~~] which ***shall***[~~to~~] be held not less than ***twenty (20)***[~~sixty (60)~~] days ***nor more than thirty (30) days from the date the signatures on the petition are validated by the county clerk***[~~from the date of passage of said order or resolution~~], the question as to whether ***the***[~~such~~] license fees for common school purposes shall be levied. If the election is[~~ to be~~] held in conjunction with a regular election, the question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order or resolution shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order or resolution shall go into effect.

(4) License fees imposed pursuant to KRS 160.482 to 160.488 shall become ***effective on***[~~applicable upon~~] the date specified in the order or resolution, but[~~ in~~] no[~~ event~~] later than the first day of the calendar year first beginning after the day[~~ upon which~~] the[~~ said~~] order or resolution is made.

Section 4. KRS 160.597 is amended to read as follows:

Any school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 may be recalled as follows:

(1) ***(a)*** The order or resolution levying any of the school taxes designated[~~ heretofore~~] in this section shall go into effect not less than ***forty-five (45)***[~~thirty (30)~~] days nor more than ninety (90) days after its passage.

(b) [~~If, ~~]During the ***forty-five (45)***[~~thirty (30)~~] days immediately following the passage of the order or resolution, ***any five (5) qualified voters who reside in the school district levying the tax may commence petition proceedings to protest the passage of the order or resolution by filing with the county clerk an affidavit stating that they constitute the petition committee and that they will be responsible for circulating the petition and filing it in the proper form within forty-five (45) days from the passage of the order or resolution. The affidavit shall state their names and addresses and specify the address to which all notices to the committee are to be sent. Upon receipt of the affidavit, the county clerk shall:***

1. ***At the time of filing of the affidavit, notify the petition committee of all statutory requirements for the filing of a valid petition under this section;***

2. ***At the time of the filing of the affidavit, notify the petition committee that the clerk will publish a notice identifying the tax levy being challenged and providing the names and addresses of the petition committee in a newspaper of general circulation within the county, if such publication exists, if the petition committee remits an amount equal to the cost of publishing the notice determined in accordance with the provisions of KRS 424.160 at the time of the filing of the affidavit. If the petition committee elects to have the notice published, the clerk shall publish the notice within five (5) days of receipt of the affidavit; and***

3. ***Deliver a copy of the affidavit to the school board or combined taxing district.***

(c) ***The petition shall be filed with the county clerk within forty-five (45) days of the passage of the order or resolution. All papers of the petition shall be uniform in size and style and shall be assembled in one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the printed name, street address, and Social Security number or birthdate of the person signing. The petition shall be***[~~a petition~~] signed by ***at least ten percent (10%)***[~~a number~~] of ***the number of*** registered and qualified voters ***residing in the school district or combined taxing district and voting in the last***[~~equal to fifteen percent (15%), except in counties containing a city of the first class, equal to five percent (5%), of the votes cast in the school district or combined taxing district levying the tax for the office receiving the greatest total vote at the last preceding~~] presidential election.

(d) ***Upon the filing of the petition with the county clerk***[~~is presented to the county clerk requesting that the order or resolution of the tax be placed before the voters for approval~~], the order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (2) of this section ***is held, or until the petition is finally determined to be insufficient and no further action may be taken pursuant to paragraph (h) of this subsection***.[~~The person presenting the petition shall be given a receipt indicating the date of presentation. Each sheet of the petition shall contain the names, residence addresses, Social Security numbers, or dates of birth of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number, or designation of the district or ward wherein the precinct is situated. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One (1) or more persons shall verify by affidavit the signatures and addresses of the signers of the petition.~~]

(e) The county clerk shall ***immediately notify the school board or combined taxing district that the petition has been received and shall, within thirty (30) days of receipt of the petition,*** make ***a***[~~the~~] determination of whether the petition contains enough signatures of qualified voters to ***place the order or resolution before the voters***[~~suspend the effect of the order or resolution, and immediately shall notify the school board that the petition has been received and that the order or resolution levying the tax will be placed before the voters for approval~~].

(f) ***If the county clerk finds the petition to be sufficient, the clerk***[~~The county clerk~~] shall certify to the school board ***or combined taxing district and the petition committee*** within ***the*** thirty (30) ***day period provided for in paragraph (e) of this subsection,***[~~days of receipt of the petition~~] that the petition is properly presented and in compliance with the provisions of this section***, and that the order or resolution levying the tax will be placed before the voters for approval***.

(g) If the county clerk finds the petition to be ***insufficient, the clerk shall, within the thirty (30) day period provided for in paragraph (e) of this subsection, notify, in writing, the petition committee and the school district or combined taxing district levying the tax of the specific deficiencies found. Notification***[~~invalid, it shall state in writing the deficiency of said petition. Written notification that the petition has been declared invalid and the deficiencies thereof~~] shall be sent by certified mail[~~to the person to whom a receipt was given by the county clerk~~], and shall be published at least one (1) time in a newspaper of general circulation within the county containing the school district levying the tax, or if there ***is***[~~be~~] no such newspaper, shall be posted at the courthouse door.

(h) ***A final determination of the sufficiency of a petition shall be subject to final review by the Circuit Court of the county in which the school district is located, and shall be limited to the validity of the county clerk's determination. Any petition challenging the county clerk's final determination shall be filed within ten (10) days of the issuance of the clerk's final determination***[~~If good cause is shown, the county clerk shall permit the petitioners to correct the deficiencies either by securing additional valid signatures or by circulating a new petition, the petition to be submitted to the county clerk within thirty (30) days from the date of the written notification of the deficiencies~~].

(2) [~~Thereupon,~~]If[~~it has been determined that~~] the petition ***is sufficient***[~~contains enough valid signatures to suspend the effect of the order or resolution~~], the county clerk shall ***at the option of the district board of education, either*** submit the question to the voters of the school district at the next regular election or ***submit the question to the voters of the school district at*** a called common school election,[~~either of~~] which is to be held not less than ***twenty (20)***[~~sixty (60)~~] days ***nor more than thirty (30) days from the date the signatures on the petition are validated by the county clerk***[~~from the date of the passage of the order or resolution~~]. If the election is to be held in conjunction with a regular election, the question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast in a district or combined taxing district upon the question oppose its passage, the order or resolution shall not go into effect in that district or combined taxing district. If a majority of the votes cast in a district or combined taxing district upon the question favor its passage, the order or resolution shall go into effect in that district. If the election is to be held in more than one (1) school district within a county, the votes shall be counted separately. The cost of a called common school election shall be borne by the school district causing the election to be held.

(3) If any statute in existence on June 17, 1978, is found to be in conflict with any provision of this section, the provisions of this section shall prevail.

Section 5. KRS 132.018 is amended to read as follows:

(1) If the tax rate applicable to real property levied by a county fiscal court, district board of education, or legislative body of a city, consolidated local government, urban-county government, or other taxing district is reduced as a result of reconsideration by the county fiscal court, district board of education, or legislative body of a city, consolidated local government, urban-county government, or other taxing district under the provisions of ***paragraph (j) of subsection (2) of Section 1 of this Act***[~~KRS 132.017(1)(b)~~], the tax rate applicable to personal property levied under the provisions of KRS 68.248(1), 132.024(1), 132.029(1), and 160.473(1) shall be reduced by the respective county fiscal court, district board of education, or legislative body of a city, consolidated local government, urban-county government, or other taxing district to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

(2) If the tax rate applicable to real property levied by a county fiscal court, district board of education, or legislative body of a city, consolidated local government, urban-county government, or other taxing district is reduced, under the provisions of ***subsection (3) of Section 1 of this Act***[~~KRS 132.017(2)(b)~~], as a result of a majority of votes cast in an election being opposed to such a rate, the tax rate applicable to personal property levied by the respective county fiscal court, district board of education, or legislative body of a city, consolidated local government, urban-county government, or other taxing district shall be reduced, without further action by the levying body, to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

Section 6. The provisions of this Act shall apply to ordinances, orders, resolutions or motions passed after July 15, 2005.

SB 18 is as follows:

SB 18, AN ACT relating to death certificates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

   (a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

   (b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

   (c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

   (d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, ***and if the cause of death is unknown or under investigation, the cause of death shall be shown as such on the certificate. A supplemental report***

providing the medical information omitted from the original certificate shall be filed by the certifier with the state registrar within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. The supplemental report shall be made a part of the existing death certificate. This report shall be considered an amendment, and the death certificate shall be marked "Amended."~~[the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475.]~~ In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and
2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health Services and the local health department. The Cabinet for Health Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional

certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

SB 43 is as follows:

SB 43, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
        (1) Kentucky Board of Education.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Operations and Development Office.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.
    (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.
    (c) Department for Environmental Protection.
    (d) Department for Natural Resources.
    (e) Department for Surface Mining Reclamation and Enforcement.
    (f) Office of Legal Services.
    (g) Office of Information Services.
    (h) Office of Inspector General.
4. Transportation Cabinet:
    (a) Department of Highways.
        1. Office of Program Planning and Management.
        2. Office of Project Development.
        3. Office of Construction and Operations.
        4. Office of Intermodal Programs.
        5. Highway District Offices One through Twelve.
    (b) Department of Vehicle Regulation.
    (c) Department of Administrative Services.
    (d) Department of Fiscal Management.
    (e) Department of Rural and Municipal Aid.
    (f) Department of Human Resources Management.
    (g) Office of the Secretary.
    (h) Office of General Counsel and Legislative Affairs.
    (i) Office of Public Affairs.
    (j) Office of Transportation Delivery.
    (k) Office of Minority Affairs.
    (l) Office of Policy and Budget.
    (m) Office of Technology.
    (n) Office of Quality.
    (o) Office of the Transportation Operations Center.
5. Cabinet for Economic Development:

- (a) Department of Administration and Support.
- (b) Department for Business Development.
- (c) Department of Financial Incentives.
- (d) Department of Community Development.
- (e) Department for Regional Development.
- (f) Tobacco Research Board.
- (g) Kentucky Economic Development Finance Authority.

6. Environmental and Public Protection Cabinet:
   - (a) Public Service Commission.
   - (b) Department of Insurance.
   - (c) Department of Housing, Buildings and Construction.
   - (d) Department of Financial Institutions.
   - (e) Department of Mines and Minerals.
   - (f) Department of Public Advocacy.
   - (g) Department of Alcoholic Beverage Control.
   - (h) Kentucky Horse Racing Authority.
   - (i) Board of Claims.
   - (j) Crime Victims Compensation Board.
   - (k) Kentucky Board of Tax Appeals.
   - (l) Office of Petroleum Storage Tank Environmental Assurance Fund.
   - (m) Department of Charitable Gaming.
   - (n) Mine Safety Review Commission.
7. Cabinet for Families and Children:
   - (a) Department for Community Based Services.
   - (b) Department for Disability Determination Services.
   - (c) Public Assistance Appeals Board.
   - (d) Office of the Secretary.
     - (1) Kentucky Commission on Community Volunteerism and Service.
   - (e) Office of the General Counsel.
   - (f) Office of Program Support.
   - (g) Office of Family Resource and Youth Services Centers.
   - (h) Office of Technology Services.
   - (i) Office of the Ombudsman.
   - (j) Office of Human Resource Management.
8. Cabinet for Health Services.
   - (a) Department for Public Health.
   - (b) Department for Medicaid Services.
   - (c) Department for Mental Health and Mental Retardation Services.
   - (d) Kentucky Commission on Children with Special Health Care Needs.
   - (e) Office of Certificate of Need.
   - (f) Office of the Secretary.
   - (g) Office of the General Counsel.
   - (h) Office of the Inspector General.
   - (i) Office of Aging Services.
9. Finance and Administration Cabinet:
   - (a) Office of Financial Management.
   - (b) Office of the Controller.
   - (c) Department for Administration.

(d) Department of Facilities Management.
(e) State Property and Buildings Commission.
(f) Kentucky Pollution Abatement Authority.
(g) Kentucky Savings Bond Authority.
(h) Deferred Compensation Systems.
(i) Office of Equal Employment Opportunity Contract Compliance.
(j) Office of Capital Plaza Operations.
(k) County Officials Compensation Board.
(l) Kentucky Employees Retirement Systems.
(m) Commonwealth Credit Union.
(n) State Investment Commission.
(o) Kentucky Housing Corporation.
(p) Governmental Services Center.
(q) Kentucky Local Correctional Facilities Construction Authority.
(r) Kentucky Turnpike Authority.
(s) Historic Properties Advisory Commission.
(t) Kentucky Tobacco Settlement Trust Corporation.
(u) Eastern Kentucky Exposition Center Corporation.
(v) State Board for Proprietary Education.

10. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Information Technology.
    (m) Office of Labor-Management Relations and Mediation.
    (n) Office of General Counsel.
    (o) Workers' Compensation Funding Commission.
    (p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
    (a) Department of Property Valuation.
    (b) Department of Tax Administration.
    (c) Office of Financial and Administrative Services.
    (d) Department of Law.
    (e) Department of Information Technology.
    (f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
    (a) Department of Travel.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.

(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.

13. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(c) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.
(g) The Foundation for Adult Education.
(h) Department for Training and Reemployment.
(i) Office of General Counsel.
(j) Office of Communication Services.
(k) Office of Workforce Partnerships.
(l) Office of Workforce Analysis and Research.
(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.

14. Personnel Cabinet:
(a) Office of ***the Secretary***[~~Administrative and Legal Services~~].
(b) Department for Personnel Administration.
1. Division of Employee Management.
2. Division of Staffing Services.
(c) ***Office***[~~Department~~] for Employee Relations.
1. Division of Employee Benefits.
2. Division of Communications and Recognition.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) ***Office of Administrative Services***[~~Kentucky Kare~~].
(f) ***Office of Legal Services***[~~Division of Performance Management~~].
(g) ***Office of Government Training***[~~Division of Employee Records~~].
(h) ***Department for Employee Insurance***[~~Division of Staffing Services~~].
1. Division of Insurance Administration.
2. Division of Financial and Data Services.
[~~(i) Division of Classification and Compensation.~~
~~(j) Division of Employee Benefits.~~
~~(k) Division of Communications and Recognition.~~
~~(l) Office of Public Employee Health Insurance.~~]

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.

8. The Governor's Office for Technology.

9. Commission on Small Business Advocacy.

10. Education Professional Standards Board.

Section 2. KRS 18A.025 is amended to read as follows:

(1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) The secretary of the Personnel Cabinet or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) There is established within the Personnel Cabinet the following offices***,***[~~ and~~] departments, ***and divisions*** each of which shall be headed by ***either*** a commissioner***, executive director, or division director*** appointed by the secretary, subject to the prior approval of the Governor, pursuant to KRS ***12.040 or*** 12.050 ***depending on the level of the appointment.***[~~, except that~~] The Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:

(a) Office of the Secretary, ***which shall***[~~composed of the~~]:

1. ***Be responsible for the administration and coordination of the following programs***[~~Office of Administrative and Legal Services, which shall~~]:

a. ***The state Equal Employment Opportunity Program***[~~Provide all administrative information systems management to the cabinet~~];

b. ***The state Minority Management Program***[~~Provide legal services to the cabinet and to executive branch agencies and their representatives, upon request~~]; and

c. [~~Coordinate~~]The state's affirmative action plan established in KRS 18A.138; and

2. Kentucky Public Employees Deferred Compensation Authority***,*** which shall ***consist of:***

a. Investments and Records Branch;

b. Payout Counseling Branch; and

c. Participant Services Branch.

The Authority shall be attached to the Office of the Secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of finance and administration, ex officio; the secretary of personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a nonstate employer. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A;

(b) Department for Personnel Administration, composed of the:

1. Division of ***Employees***[~~Performance~~] Management, which shall ***be responsible for payroll, records, classification, compensation, and performance management functions of the cabinet. The division shall also be responsible for implementing lay-off plans mandated by KRS 18A.113 to KRS 18A.1132 and shall monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA). The division shall consist of the following branches:***

a. Processing and Records Branch, which shall maintain the central personnel files mandated by KRS 18A.020 and process personnel documents and position actions;

b. Payroll Branch, which shall operate and maintain a uniform payroll system and certify payrolls as required by KRS 18A.125;

c. Classification and Compensation Branch, which shall maintain plans of classification and compensation for state service and review and evaluate the plans; and

d. Performance Management Branch, which shall oversee the employee evaluation process.[~~coordinate and implement the employee performance evaluation systems throughout state government;~~]

2.[~~ Division of Employee Records, which shall:~~

~~a. Maintain the central personnel files mandated by KRS 18A.020;~~

~~b. Process personnel documents and position actions;~~

~~c. Operate and maintain a uniform payroll system;~~

~~d. Implement lay-off plans mandated by KRS 18A.113 to KRS 18A.1132;~~

~~e. Certify payrolls as required by KRS 18A.125; and~~

~~f. Monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA);~~

~~3.~~] Division of Staffing Services, which shall ***be responsible for employment counseling, applicant processing, employment register, and staffing analysis functions. The division shall consist of the following branches***:

a. ***Employment Counseling Branch, which shall*** operate a centralized applicant and employee counseling program;

b. ***Applicant Processing Branch, which shall*** operate ***and construct*** the examination program for State employment;

c. ***Register Branch, which shall*** prepare registers of candidate employment; ***and***

d. ***Recruitment Branch, which shall*** coordinate outreach programs, such as recruitment and the Administrative Intern Program;[~~ and~~

~~e. Construct merit examinations; and~~

~~4. Division of Classification and Compensation, which shall:~~

~~a. Maintain plans of classification and compensation for the State Service; and~~

~~b. Review and evaluate the plans;~~]

(c) ***Office***[~~Department~~] for Employee Relations, composed of the ***following divisions***:

1. Division of Employee Benefits, which shall ***consist of the following branches***[~~be responsible for administering and assisting state employees with the following benefits and programs~~]:

a. Workers' Compensation ***Branch, which shall administer the state workers' compensation program pursuant to***[~~(~~]KRS 18A.375[~~)~~];

b. Life Insurance ***Branch, which shall administer the state life insurance program pursuant to*** [~~(~~]KRS 18A.205 to KRS 18A.220[~~)~~];

c. Sick leave Sharing Program***, pursuant to*** [~~(~~]KRS 18A.197[~~)~~];

d. Annual Leave Sharing Program***, pursuant to KRS 18A.203***;

e. Health and Safety Programs (OSHA); and

f. ***Employee Assistance Branch, which is responsible for the*** assessment and referral services provided to state employees;

2. Division of Communications and Recognition, which shall ***consist of the following branches***:

a. ***Communications Branch, which shall*** communicate with state employees about personnel issues and other relevant issues through publications;

b. ***Workplace Relations Branch, which shall*** administer the employee incentive programs established by KRS 18A.202[~~;~~] and [

~~c.~~]provide dispute resolution assistance to state employees and agencies; and

c. Employee Recognition Branch, which shall be responsible for the Employee Suggestion System and the Career Service Program for state employees;

(d) ***Department for***[~~Office of Public~~] Employee[~~ Health~~] Insurance, which shall be composed of the:

1. Health Insurance Program***, pursuant to***[~~ (~~]KRS 18A.225[~~)~~]; and

2. Flexible Benefit Plan***, pursuant to;*** [~~(~~]KRS 18A.227[~~).~~]

(e) Office of Administrative Services, which shall be responsible for the Personnel Cabinet's budgeting, accounting, purchasing, property management, payroll and personnel management. The Office of Administrative Services shall be composed of the following branches:

1. Administrative Services Branch; and

2. Systems Management Branch;

(f) Office of Legal Services, which shall:

1. Provide legal services to the Personnel Cabinet, including drafting statutes, regulations and legal opinions;

2. Represent the Personnel Cabinet and its employees in administrative hearings and trials;

3. Serve as Custodian of Records for the purpose of the Open Records Act;

4. Consult with other agency officials and employees on the enforcement and application of state and

federal laws and regulations governing employment; and

5. Serve as an expert witness in trials concerning the State Merit System; and

(g) Office of Government Training, which shall improve individual and organizational performance throughout state government through employee and managerial training, consultation, and survey research services. The Office of Government Training shall consist of the following branches:

1. Consulting and Learning Services Branch;

2. Administrative Services Branch; and

3. Computer and Technical Services Branch.

(4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050, as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 3. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 4. Any other provision of law to the contrary notwithstanding, the General Assembly confirms Executive Order 2004-832, dated August 3, 2004, as amended by Executive Order 2004-903, dated August 17, 2004, relating to the reorganization of the Personnel Cabinet, to the extent it is not otherwise confirmed or superceded by this Act.

The Committee Substitute to **SB 43** is as follows:

SB 43, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) Offices of the Deputy Secretaries.
(g) Office of General Counsel.
(h) Division of Kentucky State Medical Examiners Office.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
   (a) Department of Education.
      (1) Kentucky Board of Education.
   (b) Department for Libraries and Archives.
   (c) Kentucky Arts Council.
   (d) Kentucky Educational Television.
   (e) Kentucky Historical Society.
   (f) Kentucky Teachers' Retirement System Board of Trustees.
   (g) Kentucky Center for the Arts.
   (h) Kentucky Craft Marketing Program.
   (i) Kentucky Commission on the Deaf and Hard of Hearing.
   (j) Governor's Scholars Program.
   (k) Governor's School for the Arts.
   (l) Operations and Development Office.
   (m) Kentucky Heritage Council.
   (n) Kentucky African-American Heritage Commission.
   (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
   (a) Environmental Quality Commission.
   (b) Kentucky Nature Preserves Commission.
   (c) Department for Environmental Protection.
   (d) Department for Natural Resources.
   (e) Department for Surface Mining Reclamation and Enforcement.
   (f) Office of Legal Services.
   (g) Office of Information Services.
   (h) Office of Inspector General.
4. Transportation Cabinet:
   (a) Department of Highways.
      1. Office of Program Planning and Management.
      2. Office of Project Development.
      3. Office of Construction and Operations.
      4. Office of Intermodal Programs.
      5. Highway District Offices One through Twelve.
   (b) Department of Vehicle Regulation.
   (c) Department of Administrative Services.
   (d) Department of Fiscal Management.
   (e) Department of Rural and Municipal Aid.
   (f) Department of Human Resources Management.
   (g) Office of the Secretary.
   (h) Office of General Counsel and Legislative Affairs.

- (i) Office of Public Affairs.
- (j) Office of Transportation Delivery.
- (k) Office of Minority Affairs.
- (l) Office of Policy and Budget.
- (m) Office of Technology.
- (n) Office of Quality.
- (o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
   - (a) Department of Administration and Support.
   - (b) Department for Business Development.
   - (c) Department of Financial Incentives.
   - (d) Department of Community Development.
   - (e) Department for Regional Development.
   - (f) Tobacco Research Board.
   - (g) Kentucky Economic Development Finance Authority.
6. Environmental and Public Protection Cabinet:
   - (a) Public Service Commission.
   - (b) Department of Insurance.
   - (c) Department of Housing, Buildings and Construction.
   - (d) Department of Financial Institutions.
   - (e) Department of Mines and Minerals.
   - (f) Department of Public Advocacy.
   - (g) Department of Alcoholic Beverage Control.
   - (h) Kentucky Horse Racing Authority.
   - (i) Board of Claims.
   - (j) Crime Victims Compensation Board.
   - (k) Kentucky Board of Tax Appeals.
   - (l) Office of Petroleum Storage Tank Environmental Assurance Fund.
   - (m) Department of Charitable Gaming.
   - (n) Mine Safety Review Commission.
7. Cabinet for Families and Children:
   - (a) Department for Community Based Services.
   - (b) Department for Disability Determination Services.
   - (c) Public Assistance Appeals Board.
   - (d) Office of the Secretary.
     - (1) Kentucky Commission on Community Volunteerism and Service.
   - (e) Office of the General Counsel.
   - (f) Office of Program Support.
   - (g) Office of Family Resource and Youth Services Centers.
   - (h) Office of Technology Services.
   - (i) Office of the Ombudsman.
   - (j) Office of Human Resource Management.
8. Cabinet for Health Services.
   - (a) Department for Public Health.
   - (b) Department for Medicaid Services.
   - (c) Department for Mental Health and Mental Retardation Services.
   - (d) Kentucky Commission on Children with Special Health Care Needs.
   - (e) Office of Certificate of Need.

(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

9. Finance and Administration Cabinet:
(a) Office of Financial Management.
(b) Office of the Controller.
(c) Department for Administration.
(d) Department of Facilities Management.
(e) State Property and Buildings Commission.
(f) Kentucky Pollution Abatement Authority.
(g) Kentucky Savings Bond Authority.
(h) Deferred Compensation Systems.
(i) Office of Equal Employment Opportunity Contract Compliance.
(j) Office of Capital Plaza Operations.
(k) County Officials Compensation Board.
(l) Kentucky Employees Retirement Systems.
(m) Commonwealth Credit Union.
(n) State Investment Commission.
(o) Kentucky Housing Corporation.
(p) Governmental Services Center.
(q) Kentucky Local Correctional Facilities Construction Authority.
(r) Kentucky Turnpike Authority.
(s) Historic Properties Advisory Commission.
(t) Kentucky Tobacco Settlement Trust Corporation.
(u) Eastern Kentucky Exposition Center Corporation.
(v) State Board for Proprietary Education.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.

(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.
13. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.
(g) The Foundation for Adult Education.
(h) Department for Training and Reemployment.
(i) Office of General Counsel.
(j) Office of Communication Services.
(k) Office of Workforce Partnerships.
(l) Office of Workforce Analysis and Research.
(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.
14. Personnel Cabinet:
(a) Office of ***the Secretary***[~~Administrative and Legal Services~~].
(b) Department for Personnel Administration.
(c) ***Office***[~~Department~~] for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) ***Office of Administrative Services***[~~Kentucky Kare~~].
(f) ***Office of Legal Services***[~~Division of Performance Management~~].
(g) ***Office of Government Training***[~~Division of Employee Records~~].
(h) ***Department for Employee Insurance***[~~Division of Staffing Services~~].
[~~(i) Division of Classification and Compensation.~~
~~(j) Division of Employee Benefits.~~
~~(k) Division of Communications and Recognition.~~
~~(l) Office of Public Employee Health Insurance.~~]
III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.

6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 2. KRS 18A.025 is amended to read as follows:

(1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) The secretary of the Personnel Cabinet or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) There is established within the Personnel Cabinet the following offices***,***[~~ and~~] departments, ***and divisions*** each of which shall be headed by ***either*** a commissioner***, executive director, or division director*** appointed by the secretary, subject to the prior approval of the Governor, pursuant to KRS ***12.040 or*** 12.050 ***depending on the level of the appointment.***[~~, except that~~] The Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:

(a) Office of the Secretary, ***which shall***[~~composed of the~~]:

1. ***Be responsible for the administration and coordination of the following programs***[~~Office of Administrative and Legal Services, which shall~~]:

a. ***The state Equal Employment Opportunity Program***[~~Provide all administrative information systems management to the cabinet~~];

b. ***The state Minority Management Program***[~~Provide legal services to the cabinet and to executive branch agencies and their representatives, upon request~~]; and

c. [~~Coordinate~~]The state's affirmative action plan established in KRS 18A.138; and

2. Kentucky Public Employees Deferred Compensation Authority***,*** which shall be attached to the Office of the Secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of finance and administration, ex officio; the secretary of personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a nonstate employer. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A;

(b) Department for Personnel Administration, composed of the:

1. Division of ***Employee***[~~Performance~~] Management, which shall ***be responsible for payroll, records, classification, compensation, and performance management functions. The division shall also be responsible for implementing lay-off plans mandated by KRS 18A.113 to KRS 18A.1132 and shall monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA). The division shall:***

a. Maintain the central personnel files mandated by KRS 18A.020 and process personnel documents and position actions;

b. Operate and maintain a uniform payroll system and certify payrolls as required by KRS 18A.125;

c. Maintain plans of classification and compensation for state service and review and evaluate the plans; and

d. Coordinate and implement the employee performance evaluation systems throughout state government;

2.[~~ Division of Employee Records, which shall:~~

~~a. Maintain the central personnel files mandated by KRS 18A.020;~~

~~b. Process personnel documents and position actions;~~

~~c. Operate and maintain a uniform payroll system;~~

~~d. Implement lay off plans mandated by KRS 18A.113 to KRS 18A.1132;~~

~~e. Certify payrolls as required by KRS 18A.125; and~~

~~f. Monitor and assist state agencies in complying with the provisions of the Federal Fair Labor~~

~~Standards Act (FLSA);~~

~~3.~~] Division of Staffing Services, which shall ***be responsible for employment counseling, applicant processing, employment register, and staffing analysis functions. The division shall***:

a. Operate a centralized applicant and employee counseling program;

b. Operate***, coordinate, and construct*** the examination program for State employment;

c. Prepare registers of candidate employment; ***and***

d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program;[~~ and~~

~~e. Construct merit examinations; and~~

~~4. Division of Classification and Compensation, which shall:~~

~~a. Maintain plans of classification and compensation for the State Service; and~~

~~b. Review and evaluate the plans;~~]

(c) ***Office***[~~Department~~] for Employee Relations, composed of the ***following divisions***:

1. Division of Employee Benefits, which shall ***consist of the following***[~~be responsible for administering and assisting state employees with the following benefits and programs~~]:

a. Workers' Compensation ***Program pursuant to***[~~(~~]KRS 18A.375[~~)~~];

b. Life Insurance ***Program pursuant to*** [~~(~~]KRS 18A.205 to KRS 18A.220[~~)~~];

c. Sick leave Sharing Program***, pursuant to*** [~~(~~]KRS 18A.197[~~)~~];

d. Annual Leave Sharing Program***, pursuant to KRS 18A.203***;

e. Health and Safety Programs (OSHA); and

f. ***Employee Assistance Program***[~~assessment and referral services provided to state employees~~];

2. Division of Communications and Recognition, which shall:

a. Communicate with state employees about personnel issues and other relevant issues through publications;

b. Administer the employee incentive programs established by KRS 18A.202; and

c. Provide dispute resolution assistance to state employees and agencies;[~~ and~~]

(d) ***Department for***[~~Office of Public~~] Employee[~~ Health~~] Insurance, which shall be ***responsible for***[~~composed of~~] the:

1. Health Insurance Program***, pursuant to***[~~ (~~]KRS 18A.225[~~)~~]; and

2. Flexible Benefit Plan***, pursuant to*** [~~(~~]KRS 18A.227***;***[~~).~~]

(e) Office of Administrative Services, which shall be responsible for the Personnel Cabinet's Administrative Services;

(f) Office of Legal Services, which shall provide legal services to the Personnel Cabinet and to executive branch agencies and their representatives, upon request; and

(g) Office of Government Training, which shall improve individual and organizational performance throughout state government through employee and managerial training, consultation, and survey research services.

(4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050 ***or 18A.115(g) and (h)***, as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 3. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 4. Any other provision of law to the contrary notwithstanding, the General Assembly confirms Executive Order 2004-832, dated August 3, 2004, as amended by Executive Order 2004-903, dated August 17, 2004, relating to the reorganization of the Personnel Cabinet, to the extent it is not otherwise confirmed or superceded by this Act.

The Committee on Transportation reported **SB 11** with Committee Substitute with expression of opinion that same should pass. Read at length for the first time and placed in the Calendar.

SB 11 is as follows:

SB 11, AN ACT relating to operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) A person under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:

(a) Full legal name and signature;

(b) Date of birth;

(c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;

(d) Sex;

(e) Present Kentucky resident address, exclusive of a post office box address alone;

(f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;

(g) A brief physical description of the applicant;

(h) A statement if the person has previously been licensed as an operator in another state;

(i) Proof of the person's Kentucky residency including, but not limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

(j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

(3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:

(a) An I-551 card with a photograph of the applicant; or

(b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."

(4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(a) The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.

(b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.

(c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.

(d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.

(e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo nondriver's identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a nondriver's identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

(b) It shall be permissible for the application form for a nondriver's identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.

(c) Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) A nondriver's identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal nondriver's identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal nondriver's identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular nondriver's identification card.

(e) A nondriver's identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.

(8) A person shall not be eligible to be issued a nondriver's identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary nondriver's identification card. A temporary nondriver's identification shall be renewed annually and shall be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.

(9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo nondriver's identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar (S4) fee for the child identification card. Two dollars ($2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks

and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars ($4), with two dollars ($2) of the fee going to the cabinet and two dollars ($2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet;~~[and]~~

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195***; and***

(d) Upon the request of the licensed driver, a notation on the operator's license that indicates that the holder of the license is deaf or hard of hearing as defined by KRS 163.500 and uses alternative communication.

(14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(15) An operator's license pursuant to this section shall be designated a Class D license.

(16) A person shall not have more than one (1) license.

(17) Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(18) Upon issuing an operator's license or nondriver's identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 2. This Act takes effect January 1, 2006.

The Committee Substitute to **SB 11** is as follows:

SB 11, AN ACT relating to operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) A person under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:

(a) Full legal name and signature;

(b) Date of birth;

(c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;

(d) Sex;

(e) Present Kentucky resident address, exclusive of a post office box address alone;

(f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;

(g) A brief physical description of the applicant;

(h) A statement if the person has previously been licensed as an operator in another state;

(i) Proof of the person's Kentucky residency including, but not limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

(j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

(3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:

(a) An I-551 card with a photograph of the applicant; or

(b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."

(4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(a) The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.

(b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine. if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.

(c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.

(d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.

(e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo nondriver's identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a nondriver's identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

(b) It shall be permissible for the application form for a nondriver's identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.

(c) Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) A nondriver's identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal nondriver's identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal nondriver's identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular nondriver's identification card.

(e) A nondriver's identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.

(8) A person shall not be eligible to be issued a nondriver's identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary nondriver's identification card. A temporary nondriver's identification shall be renewed annually and shall be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.

(9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo nondriver's identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar ($4) fee for the child identification card. Two dollars ($2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks

and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars ($4), with two dollars ($2) of the fee going to the cabinet and two dollars ($2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet;~~[and]~~

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195***; and***

(d) Upon the request of the licensed driver, a decal to be affixed to the operator's license that indicates that the holder of the license is deaf or hard of hearing as defined by KRS 163.500 and uses alternative communication.

(14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(15) An operator's license pursuant to this section shall be designated a Class D license.

(16) A person shall not have more than one (1) license.

(17) Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(18) Upon issuing an operator's license or nondriver's identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 2. This Act takes effect January 1, 2006.

The Committee on Transportation reported **SB 39** with expression of opinion that same should pass. Read for the second time by title only and referred to the Committee on Rules.

The Committee on Veterans, Military Affairs, and Public Protection reported **SB 44** with Committee Substitute with expression of opinion that same should pass. Read at length for the first time and placed in the Calendar.

SB 44 is as follows:

SB 44, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 39G IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) The Office of Homeland Security shall be attached to the Office of the Governor and shall be headed by an executive director appointed by the Governor.

(2) The Office of Homeland Security shall coordinate a comprehensive statewide homeland security strategy. In doing so, the office shall coordinate the executive branch's efforts to secure and protect personnel, assets, and facilities within the Commonwealth of Kentucky.

(3) The executive director shall establish and chair an interagency working group composed of the most recent chair of the Senate Veterans, Military Affairs, and Public Protection Committee, the most recent chair of the House of Representatives Seniors, Military Affairs, and Public Safety Committee, state agencies, and, at his or her discretion, private agencies to help identify risks and needs and make a complete assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism.

(4) The Office of Homeland Security may accept on behalf of the Commonwealth any grant, contribution, or fund, federal or otherwise, made to assist in meeting the costs of carrying out the provisions and purposes of KRS Chapter 39G and shall fully comply with all funding requirements imposed by the receipt and use of the grant, contribution, or fund.

(5) The Office of Homeland Security shall develop a comprehensive strategy addressing how state and federal funds and other assistance will be allocated within the state to purchase specialized equipment required to respond effectively and safely to terrorist incidents. Any funds received for the purpose of homeland security shall be monitored by the Office of Homeland Security and shall be subject to audit and compliance inspections, as directed by the executive director.

(6) The Office of Homeland Security shall urge the state and local governments to exceed minimum federal requirements for receiving assistance in preparing to respond to acts of war or terrorism in the hope that the Commonwealth will become a national leader in this preparation.

(7) The Office of Homeland Security shall provide information explaining how individuals and private organizations, including volunteer and religious organizations, can best prepare for and respond to incidents contemplated by this section and to other threatened, impending, or declared emergencies and whom to contact should they desire to volunteer help or services during such an emergency. The program shall identify and encourage these private organizations to specifically commit to provide food, shelter, personnel, equipment, materials, consultation, and advice, or other services needed to respond to these incidents.

(8) The executive director of the Office of Homeland Security may delegate responsibilities created under this section to another executive branch agency.

(9) The executive director, or his or her designee, and the director of the Division of Emergency Management shall, in the event of a disaster or emergency involving homeland security, make a joint recommendation to the Governor.

(10) The executive director shall coordinate the efforts of the Office of Homeland Security with the efforts of the federal Department of Homeland Security.

(11) The Office of Homeland Security shall promulgate any administrative regulations necessary to carry out the provisions of this chapter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) The Office of Homeland Security shall identify and maintain a record of all federal homeland security funding, including grants, received in Kentucky. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.

(2) (a) Not later than September 15 of each year, each department headed by an elected officer, as identified in KRS 12.020 I., each cabinet headed by an appointed officer, as identified in KRS 12.020 II., and each department headed by an appointed officer, as identified in KRS 12.020 III., shall submit to the Office of Homeland Security a record of all federal homeland security funding, including grants, received during the state fiscal year starting with the fiscal year ending June 30, 2005. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.

(b) Not later than August 1 of each year, each city, county, urban-county, charter county, consolidated local government, and special taxing district shall submit to its area development district a record of all federal homeland security funding, including grants, received during the state fiscal year by the city, county, urban-county, charter county, consolidated local government, special taxing district, or a public agency thereof, starting with the fiscal year ending June 30, 2005. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.

(c) Not later than August 15 of each year, each area development district shall group the records required under

paragraph (b) of this subsection by county and submit them to the Department for Local Government.

(d) Not later than September 15 of each year, the Department for Local Government shall submit the records received under paragraph (c) of this subsection to the Office of Homeland Security.

(3) The Office of Homeland Security, area development districts, and the Department for Local Government shall educate entities that report under this section about their responsibilities under this section. If an entity is late in reporting under this section, the office, an area development district, or the Department for Local Government shall remind that entity of its reporting requirements under this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) Each year between September 15 and October 10, the executive director of the Office of Homeland Security shall submit a written report to the Governor, the Auditor of Public Accounts, the Legislative Research Commission, and the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection. The written report shall:

(a) Assess the Commonwealth's preparedness to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;

(b) Identify the priority of needs, areas of improvement, and the overall progress made with regard to the Commonwealth's preparedness; and

(c) Provide a record of all federal homeland security funding, including grants, gathered under Section 2 of this Act since the last annual written report as well as any other relevant homeland security funding information gathered by the Office of Homeland Security. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use of the funding, and any unspent amount.

(2) The Auditor of Public Accounts may conduct an examination of revenues and expenditures provided under the annual written report and under subsection (2)(c) of Section 2 of this Act and, if examination findings warrant, may conduct audits. No later than January 30, the Auditor shall submit all examination and audit reports to the Senate Veterans, Military Affairs, and Public Protection Committee and the House Seniors, Military Affairs, and Public Safety Committee.

Section 4. KRS 39A.050 is amended to read as follows:

(1) The Division of Emergency Management shall coordinate for the Governor all matters pertaining to the comprehensive emergency management program and disaster and emergency response of the Commonwealth. The division shall be the executive branch agency of state government having primary jurisdiction, responsibility, and authority for the planning and execution of disaster and emergency assessment, mitigation, preparedness, response, and recovery for the Commonwealth; the coordination of all disaster and emergency response by and between all state agencies, all agencies of city, county, and urban-county or charter county government, all local entities, and all political subdivisions of the Commonwealth for an emergency, declared emergency, disaster, or catastrophe as contemplated in KRS 39A.010, 39A.020, or 39A.030; the coordination of, and liaison with, related or concerned federal government agencies, elected officials of other states, private organizations or private sector companies dealing with disaster and emergency response; the coordination of all recovery operations and mitigation initiatives subsequent to disasters or emergencies; and the coordination of all public information activities regarding state government disaster and emergency response operations.

(2) The Division of Emergency Management shall have and exercise the following powers, authorities, and duties:

(a) To develop, administer, and maintain a statewide comprehensive emergency management program for the Commonwealth, and through it an integrated emergency management system for the disaster and emergency response of the Commonwealth, which shall be coordinated with the emergency management programs, and other related public safety, emergency response, mitigation, or disaster recovery programs, of all appropriate federal government agencies including the Federal Emergency Management Agency, the ***Department***[~~Office~~] of Homeland Security, the State Department, the Federal Aviation Administration, the Centers for Disease Control and Prevention, the Department of Transportation, the Environmental Protection Agency, the Occupational Safety and Health Administration, the Department of Defense, the National Oceanic and Atmospheric Administration, the Department of Justice, the Bureau of Alcohol, Tobacco, and Firearms, the National Transportation Safety Board, the Chemical Safety and Hazard Investigation Board, the Army Corps of Engineers, the National Security Council, the Department of Health and Human Services, the Federal Railroad Administration, the United States Geological Survey, the Department of Energy, the Nuclear Regulatory Commission, the Department of Agriculture, the Department of Housing and Urban Development, the American Red Cross, the other states, and other appropriate public or private agencies, to the fullest appropriate extent;

(b) To coordinate the development, implementation, and maintenance of comprehensive emergency management programs by local emergency management agencies in the cities, counties, and urban-county or charter county governments of the Commonwealth to ensure that all such programs, agencies, and organizations are organized, administered, and operated as functional components of the integrated emergency management system of the Commonwealth;

(c) To develop and maintain a comprehensive, risk-based, all-hazards disaster and emergency response plan entitled

"Kentucky Emergency Operations Plan," the provisions of which shall establish the organizational structure to be utilized by state government for managing disaster and emergency response, and set forth the policies, procedures, and guidelines for the coordination and execution of all disaster and emergency response for an emergency, declared emergency, disaster, or catastrophe in the Commonwealth. The Kentucky Emergency Operations Plan shall be submitted to the Governor for approval when the Governor assumes office following each gubernatorial election, or at other times as the director deems appropriate. The Governor shall provide written approval of the Kentucky Emergency Operations Plan through issuance of an executive order, and the division shall file a copy of the executive order with the Legislative Research Commission. The Kentucky Emergency Operations Plan shall be the primary strategic disaster and emergency response planning component of the integrated emergency management system of the Commonwealth, and shall be utilized and followed by all state agencies, all local government agencies, all local public agencies or entities, and all other political subdivisions of the Commonwealth which may be involved in disaster and emergency response in the Commonwealth. The Kentucky Emergency Operations Plan shall be updated by the division not less than annually;

(d) To maintain and operate the State Emergency Operations Center facility, which shall be the official and primary state government twenty-four (24) hour warning point, communications, and command center, from which the Governor, cabinet secretaries, department heads, and other state agency officials can, at any time, rapidly, adequately, and effectively manage the disaster and emergency response of the Commonwealth. The State Emergency Operations Center facility shall be the primary state direction and control component of the integrated emergency management system of the Commonwealth for the coordination of all disaster and emergency response in the Commonwealth;

(e) To develop, monitor, and operate, on a twenty-four (24) hour per day basis, the appropriate alerting or warning systems, public safety telecommunications systems, or radio networks; any state trunked, fiber, or interactive communication systems; computer, fax, other telecommunications or information networks; and systems needed for communication and coordination with all necessary or appropriate federal, state, or local public safety, law enforcement, emergency management, or other disaster and emergency response agencies, and state or local dispatch centers in the Commonwealth, and other appropriate interests, and through these agencies and systems to receive or disseminate emergency information, or to receive timely notification of, and continual assessment of, all threatened or actual emergency incidents or disaster situations occurring anywhere in or near the Commonwealth;

(f) To immediately notify the Governor***,***[~~ and~~] the adjutant general, ***and the executive director of the Office of Homeland Security, or his or her designee,*** in the event of any major emergency incidents or disaster occurrences, or the threatened or impending occurrence of any of these events, and to keep the Governor***,***[~~ and~~] the adjutant general***, and the executive director of the Office of Homeland Security, or his or her designee,*** informed of all actions being taken in response to these events;

(g) To respond to the scenes of emergencies or disasters, or their threatened or impending occurrence and to directly and immediately investigate, analyze, and assess the nature and seriousness of these situations; to convene meetings, gather information, conduct briefings, and evaluate ongoing emergency response activities; take actions to execute the appropriate provisions of the Kentucky Emergency Operations Plan; coordinate the establishment and operation of a state incident management system; establish or manage sub-state or area emergency operations centers, or on-scene command posts; and fully expedite and coordinate the disaster and emergency response of the Commonwealth;

(h) To establish and operate area field offices of the division, each office to be headed by an area manager, responsible for administering the policies, plans, programs, and duties of the division in specific geographic areas of the Commonwealth, including the coordination of comprehensive emergency management programs developed by the cities, counties, urban-county, or charter county governments in the areas;

(i) To provide funds to the cities, counties, and urban-county or charter county governments of the Commonwealth to support the development, administration, operation, and maintenance of local emergency management agencies created pursuant to KRS Chapters 39A to 39F;

(j) To require the regular submission of program administration data, records, materials, reports, or documents from local emergency management agencies as may be necessary and sufficient to conduct performance reviews and assessments to ensure compliance with all state or federal funding and program requirements, and to ensure local program compatibility and consistency with the mission, goals, and objectives of the comprehensive emergency management program and integrated emergency management system of the Commonwealth;

(k) To ascertain the requirements of the Commonwealth and its cities and counties for emergency resources and the necessities of life in the event of disaster or emergency; institute an emergency resource management plan and procure emergency supplies, materials, and equipment; and use or employ in time of emergency any of the property, services, and resources of state or local government in the Commonwealth for the purposes set forth in KRS Chapters 39A to 39F;

(l) To institute public information and education programs, emergency management training programs, and exercise programs to test and evaluate emergency operations plans and disaster and emergency response and recovery capabilities; ***and***

(m)[~~To assess the threat of and the Commonwealth's capacity for responding to acts of war or terrorism, including but not limited to nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;~~

~~(n) To develop a statewide plan and needs assessment for responding to acts of war or terrorism, including but not limited to nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;~~

~~(o) Develop a comprehensive strategy addressing how state and federal funds and other U.S. Department of Justice assistance will be allocated within the state to purchase specialized equipment required to respond to terrorist incidents effectively and safely;~~

~~(p) Establish as a goal to exceed the minimum requirements established by the U.S. Department of Justice, under congressional direction, for state and local governments receiving assistance needed to enhance their capabilities to respond to terrorist attacks. This goal is established in order for the Commonwealth to emerge as a preeminent national leader in preparation and training to address terrorist incidents involving weapons of mass destruction; and~~

~~(q)~~] To promulgate administrative regulations to carry out the provisions of KRS Chapters 39A to 39F.

Section 5. KRS 36.010 is amended to read as follows:

The Department of Military Affairs shall be attached to the Office of the Governor, have charge of and be responsible to the Governor for the proper functioning of the Kentucky National Guard, militia, and all other military or naval matters of the state, and shall consist of the following offices and divisions:

(1) Office of Management and Administration, containing the:
  (a) Division of Administrative Services;
  (b) Division of Facilities;
  (c) Bluegrass Station Division;
  (d) Division of Air Transport; and
  (e) Logistics Operations Division;
(2) Division of Emergency Management;
(3) Office of the Chief of Staff for Federal Army Guard;
(4) Office of the Chief of Staff for Federal Air Guard;
(5)[~~Office for Security Coordination;~~
~~(6)~~] Kentucky Guard Youth Challenge Division; and
(6)[~~(7)~~] Kentucky Civil Air Patrol.

In order to promote greater efficiency, economy, and improved administration, the divisional structure of the Department of Military Affairs may be changed, redesignated, or reorganized in accordance with KRS Chapter 12. Notwithstanding KRS Chapter 12, the department's attachment to the Office of Governor as a separate organizational unit not attached to any cabinet shall not be changed except by action of the General Assembly.

Section 6. KRS 39A.070 is amended to read as follows:

The director, with the approval of the adjutant general, shall exercise the following powers, responsibilities, and duties:

(1) To represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the Commonwealth;

(2) To coordinate the development of a statewide comprehensive emergency management program, and through it, an integrated emergency management system for the disaster and emergency response of the Commonwealth;

(3) To promulgate administrative regulations and issue orders, directives, standards, rules, procedures, guidance, or recommended practices necessary to coordinate the development, administration, organization, operation, implementation, and maintenance of the statewide comprehensive emergency management program and the integrated emergency management system of the Commonwealth;

(4) To coordinate the development of comprehensive emergency management programs by the cities, counties, and urban-county or charter county governments as functional components of the integrated emergency management system of the Commonwealth;

(5) To supervise the development and maintenance of the Kentucky Emergency Operations Plan, and to review and give concurrence to local emergency operations plans required pursuant to KRS Chapters 39A to 39F;

(6) To coordinate the comprehensive emergency management program of the Commonwealth with the emergency management or other emergency response-related programs of the federal government, and of other states, to the fullest appropriate extent;

(7) To advise the Governor and the adjutant general immediately of the occurrence or threatened or impending occurrence of any disaster or emergency, and to recommend to the Governor any emergency actions, written orders, emergency powers, or executive orders that the Governor should execute***. In the event of a disaster or emergency involving homeland***

security, the director shall make a joint recommendation with the executive director of the Office of Homeland Security, or his or her designee, to the Governor;

(8) To serve as the Governor's primary liaison with local officials in the event of the occurrence, or threatened or impending occurrence, of any disaster or emergency in the cities, counties, urban-counties, or charter counties of the Commonwealth;

(9) To take any other preparedness or response actions deemed necessary for adequate response to a disaster or emergency situation to include: requesting increased readiness activities by state or local agencies in advance of an actual disaster or emergency; requesting implementation of local emergency operations plans or the activation of local emergency operations centers; requesting reports from state or local agencies regarding emergency situations, damage assessments, or the taking of emergency response actions; and requesting the mobilization or deployment of any trained and equipped forces of state or local government for the disaster and emergency response purposes set forth in KRS Chapters 39A to 39F;

(10) To request and utilize the personnel, equipment, services, and facilities of existing officers and agencies of the Commonwealth and of all political subdivisions and special districts. All these officers and agencies shall fully cooperate with and extend their resources to the director as requested to the extent that local public safety is not unreasonably compromised;

(11) To employ measures and give directions to the state or local boards of health as necessary for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or with the findings or recommendations of the boards of health, because of conditions arising from disasters, emergency situations, national security emergencies, or the threat thereof;

(12) To request and utilize the services of state and local law enforcement officers for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or any order of the Governor pertaining to disaster and emergency response;

(13) On behalf of this Commonwealth, with the approval of the Governor or act of the General Assembly, to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide, local, county, or city basis, or with other states or a province of a foreign country. The mutual aid agreements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; National Guard personnel and resources while under the control of the state; health, medical, and related services; firefighting; rescue; search and rescue or recovery; urban search and rescue; hazardous materials response services, transportation and construction services and equipment; personnel necessary to provide or conduct these services and other supplies, equipment, facilities, personnel, and services as needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, firefighting, search and rescue, and police units, and health units; and on the terms and conditions deemed necessary;

(14) To sponsor and develop mutual aid plans and agreements among the urban-county or charter county governments, counties, cities, and other political subdivisions and special districts of the Commonwealth, similar to the mutual aid arrangements with other states referred to in subsection (13) of this section;

(15) To procure motor vehicles, radio and telecommunications equipment, protective clothing, safety equipment, and other necessary supplies and materials to meet the emergency response, operational, and administrative needs of the division;

(16) To identify deficiencies existing in the emergency management program organization, facilities, and capabilities of the Commonwealth, including but not limited to: personnel and administrative resources; state, sub-state, area, or local emergency operations centers; mobile command posts; emergency telecommunications and computer systems; alerting and warning systems; stockpiles of critical resources; or any other necessary elements, and to recommend to the adjutant general, for consideration by the Governor or the General Assembly or other appropriate funding authority, the administrative or operational funding requirements, and long-range capital construction or improvement projects needed to meet the emergency management infrastructure needs of the Commonwealth;

(17) To serve as the state coordinating officer and notify the Governor of the appropriations necessary to fund the expected emergency operational or response costs of the division, and the Commonwealth's share of the grants provided by Pub.L.No. 93-288, Title V, Federal Disaster Assistance Programs as amended by Pub.L.No. 100-707, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or successor acts or titles, and further, take action necessary to ensure entitlement to all other federal relief or assistance programs;

(18) To cooperate with the President of the United States, the Federal Emergency Management Agency, and other appropriate federal offices and agencies, and the offices and agencies of other states in matters pertaining to the comprehensive emergency management program of the Commonwealth and nation; and in connection with these, to take any measures considered necessary to implement any request of the President and the appropriate federal offices and agencies, for any action requiring effective disaster and emergency response, including the direction or control and mobilization of disaster and emergency response forces; tests and exercises, warnings, and signals for drills or other emergency response activities and the mechanical devices to be used in connection with these; the shutting off of water mains, gas mains, electric power connections, and the suspension of all other utility services; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to a drill, emergency, declared emergency, or disaster; public meetings or gatherings; and the evacuation and sheltering of the civilian population; ***and***

(19)[~~To develop a statewide plan and needs assessment for responding to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism; and~~

~~(20)~~] To delegate any authority vested in the director under KRS Chapters 39A to 39F and to provide for the subdelegation of any such authority.

Section 7. KRS 11.5163 is amended to read as follows:

(1) The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the chief information officer for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.

(3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the chief information officer, the Governor's Office for Policy and Management, and the General Assembly.

(4) The chief information officer shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.

(5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, Governor's Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Division of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office ***of Homeland***[~~for~~] Security[~~ Coordination, Department of Military Affairs~~];

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(6) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(7) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(8) The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(9) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(10) The committee may establish additional working groups as determined by the committee.

Section 8. KRS 39A.283 is amended to read as follows:

KRS 39A.050, 39A.070, ***and*** 39A.285[~~, and 39A.287~~] may be cited as the Antiterrorism Act of 2002.

Section 9. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 10. Any provision of law to the contrary notwithstanding, the General Assembly confirms the Governor's Executive Order 2004-530, dated May 27, 2004, relating to the Office of Homeland Security, to the extent it is not otherwise confirmed or superseded by this Act.

Section 11. The following KRS sections are repealed:

36.224 Office for Security Coordination -- Federal homeland security funding.

39A.287 Preparedness of Commonwealth to respond to acts of war or terrorism -- Annual assessment.

The Committee Substitute to **SB 44** is as follows:

SB 44, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 39G IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) The Office of Homeland Security shall be attached to the Office of the Governor and shall be headed by an executive director appointed by the Governor.

(2) The Office of Homeland Security shall coordinate a comprehensive statewide homeland security strategy. In doing so, the office shall coordinate the executive branch's efforts to secure and protect personnel, assets, and facilities within the Commonwealth of Kentucky.

(3) The executive director shall establish and chair an interagency working group composed of the chair of the Senate Veterans, Military Affairs, and Public Protection Committee, the chair of the House of Representatives Seniors, Military Affairs, and Public Safety Committee, state agencies, and, at his or her discretion, private agencies to help identify risks and needs and make a complete assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism.

(4) The Office of Homeland Security may accept on behalf of the Commonwealth any grant, contribution, or fund, federal or otherwise, made to assist in meeting the costs of carrying out the provisions and purposes of KRS Chapter 39G and shall fully comply with all funding requirements imposed by the receipt and use of the grant, contribution, or fund.

(5) The Office of Homeland Security shall develop a comprehensive strategy addressing how state and federal funds and other assistance will be allocated within the state to purchase specialized equipment required to respond effectively and safely to terrorist incidents. Any funds received for the purpose of homeland security shall be monitored by the Office of Homeland Security and shall be subject to audit and compliance inspections, as directed by the executive director.

(6) The Office of Homeland Security shall urge the state and local governments to exceed minimum federal requirements for receiving assistance in preparing to respond to acts of war or terrorism in the hope that the Commonwealth will become a national leader in this preparation.

(7) The Office of Homeland Security shall provide information explaining how individuals and private organizations, including volunteer and religious organizations, can best prepare for and respond to incidents contemplated by this section and to other threatened, impending, or declared emergencies and whom to contact should they desire to volunteer help or services during such an emergency. The program shall identify and encourage these private organizations to specifically commit to provide food, shelter, personnel, equipment, materials, consultation, and advice, or other services needed to respond to these incidents.

(8) The executive director of the Office of Homeland Security may delegate responsibilities created under this section to another executive branch agency.

(9) The executive director, or his or her designee, the Adjutant General, and the director of the Division of Emergency Management shall, in the event of a disaster or emergency involving homeland security, make a joint recommendation to the Governor.

(10) The executive director shall coordinate the efforts of the Office of Homeland Security with the efforts of the federal Department of Homeland Security.

(11) The Office of Homeland Security shall promulgate any administrative regulations necessary to carry out the provisions of this chapter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) The Office of Homeland Security shall identify and maintain a record of all federal homeland security funding, including grants, received in Kentucky. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.

(2) (a) Not later than September 15 of each year, each department headed by an elected officer, as identified in KRS 12.020 I., each cabinet headed by an appointed officer, as identified in KRS 12.020 II., and each department headed by an appointed officer, as identified in KRS 12.020 III., shall submit to the Office of Homeland Security a record of all federal homeland security funding, including grants, received during the state fiscal year starting with the fiscal year ending June 30, 2005. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.

(b) Not later than August 1 of each year, each city, county, urban-county, charter county, consolidated local government, and special taxing district shall submit to its area development district a record of all federal homeland security funding, including grants, received during the state fiscal year by the city, county, urban-county, charter county, consolidated local government, special taxing district, or a public agency thereof, starting with the fiscal year ending June 30, 2005. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.

(c) Not later than August 15 of each year, each area development district shall group the records required under paragraph (b) of this subsection by county and submit them to the Department for Local Government.

(d) Not later than September 15 of each year, the Department for Local Government shall submit the records received under paragraph (c) of this subsection to the Office of Homeland Security.

(3) The Office of Homeland Security, area development districts, and the Department for Local Government shall educate entities that report under this section about their responsibilities under this section. If an entity is late in reporting under this section, the office, an area development district, or the Department for Local Government shall remind that entity of its reporting requirements under this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) Each year between September 15 and October 10, the executive director of the Office of Homeland Security shall submit a written report to the Governor, the Auditor of Public Accounts, the Legislative Research Commission, and the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection. The written report shall:

(a) Assess the Commonwealth's preparedness to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;

(b) Identify the priority of needs, areas of improvement, and the overall progress made with regard to the Commonwealth's preparedness; and

(c) Provide a record of all federal homeland security funding, including grants, gathered under Section 2 of this Act since the last annual written report as well as any other relevant homeland security funding information gathered by the Office of Homeland Security. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use of the funding, and any unspent amount.

(2) The Auditor of Public Accounts may conduct an examination of revenues and expenditures provided under the annual written report and under subsection (2)(c) of Section 2 of this Act and, if examination findings warrant, may conduct audits. No later than January 30, the Auditor shall submit all examination and audit reports to the Senate Veterans, Military Affairs, and Public Protection Committee and the House Seniors, Military Affairs, and Public Safety

Committee.

Section 4. KRS 39A.050 is amended to read as follows:

(1) The Division of Emergency Management shall coordinate for the Governor all matters pertaining to the comprehensive emergency management program and disaster and emergency response of the Commonwealth. The division shall be the executive branch agency of state government having primary jurisdiction, responsibility, and authority for the planning and execution of disaster and emergency assessment, mitigation, preparedness, response, and recovery for the Commonwealth; the coordination of all disaster and emergency response by and between all state agencies, all agencies of city, county, and urban-county or charter county government, all local entities, and all political subdivisions of the Commonwealth for an emergency, declared emergency, disaster, or catastrophe as contemplated in KRS 39A.010, 39A.020, or 39A.030; the coordination of, and liaison with, related or concerned federal government agencies, elected officials of other states, private organizations or private sector companies dealing with disaster and emergency response; the coordination of all recovery operations and mitigation initiatives subsequent to disasters or emergencies; and the coordination of all public information activities regarding state government disaster and emergency response operations.

(2) The Division of Emergency Management shall have and exercise the following powers, authorities, and duties:

(a) To develop, administer, and maintain a statewide comprehensive emergency management program for the Commonwealth, and through it an integrated emergency management system for the disaster and emergency response of the Commonwealth, which shall be coordinated with the emergency management programs, and other related public safety, emergency response, mitigation, or disaster recovery programs, of all appropriate federal government agencies including the Federal Emergency Management Agency, the ***Department***[~~Office~~] of Homeland Security, the State Department, the Federal Aviation Administration, the Centers for Disease Control and Prevention, the Department of Transportation, the Environmental Protection Agency, the Occupational Safety and Health Administration, the Department of Defense, the National Oceanic and Atmospheric Administration, the Department of Justice, the Bureau of Alcohol, Tobacco, and Firearms, the National Transportation Safety Board, the Chemical Safety and Hazard Investigation Board, the Army Corps of Engineers, the National Security Council, the Department of Health and Human Services, the Federal Railroad Administration, the United States Geological Survey, the Department of Energy, the Nuclear Regulatory Commission, the Department of Agriculture, the Department of Housing and Urban Development, the American Red Cross, the other states, and other appropriate public or private agencies, to the fullest appropriate extent;

(b) To coordinate the development, implementation, and maintenance of comprehensive emergency management programs by local emergency management agencies in the cities, counties, and urban-county or charter county governments of the Commonwealth to ensure that all such programs, agencies, and organizations are organized, administered, and operated as functional components of the integrated emergency management system of the Commonwealth;

(c) To develop and maintain a comprehensive, risk-based, all-hazards disaster and emergency response plan entitled "Kentucky Emergency Operations Plan," the provisions of which shall establish the organizational structure to be utilized by state government for managing disaster and emergency response, and set forth the policies, procedures, and guidelines for the coordination and execution of all disaster and emergency response for an emergency, declared emergency, disaster, or catastrophe in the Commonwealth. The Kentucky Emergency Operations Plan shall be submitted to the Governor for approval when the Governor assumes office following each gubernatorial election, or at other times as the director deems appropriate. The Governor shall provide written approval of the Kentucky Emergency Operations Plan through issuance of an executive order, and the division shall file a copy of the executive order with the Legislative Research Commission. The Kentucky Emergency Operations Plan shall be the primary strategic disaster and emergency response planning component of the integrated emergency management system of the Commonwealth, and shall be utilized and followed by all state agencies, all local government agencies, all local public agencies or entities, and all other political subdivisions of the Commonwealth which may be involved in disaster and emergency response in the Commonwealth. The Kentucky Emergency Operations Plan shall be updated by the division not less than annually;

(d) To maintain and operate the State Emergency Operations Center facility, which shall be the official and primary state government twenty-four (24) hour warning point, communications, and command center, from which the Governor, cabinet secretaries, department heads, and other state agency officials can, at any time, rapidly, adequately, and effectively manage the disaster and emergency response of the Commonwealth. The State Emergency Operations Center facility shall be the primary state direction and control component of the integrated emergency management system of the Commonwealth for the coordination of all disaster and emergency response in the Commonwealth;

(e) To develop, monitor, and operate, on a twenty-four (24) hour per day basis, the appropriate alerting or warning systems, public safety telecommunications systems, or radio networks; any state trunked, fiber, or interactive communication systems; computer, fax, other telecommunications or information networks; and systems needed for communication and coordination with all necessary or appropriate federal, state, or local public safety, law enforcement, emergency management, or other disaster and emergency response agencies, and state or local dispatch centers in the Commonwealth, and other appropriate interests, and through these agencies and systems to receive or disseminate emergency information, or to receive timely notification of, and continual assessment of, all threatened or actual emergency incidents or disaster situations occurring anywhere in or near the Commonwealth;

(f) To immediately notify the Governor***,***[~~ and~~] the adjutant general, ***and the executive director of the Office of Homeland Security, or his or her designee,*** in the event of any major emergency incidents or disaster occurrences, or the threatened or impending occurrence of any of these events, and to keep the Governor***,***[~~ and~~] the adjutant general***, and the executive director of the Office of Homeland Security, or his or her designee,*** informed of all actions being taken in response to these events;

(g) To respond to the scenes of emergencies or disasters, or their threatened or impending occurrence and to directly and immediately investigate, analyze, and assess the nature and seriousness of these situations; to convene meetings, gather information, conduct briefings, and evaluate ongoing emergency response activities; take actions to execute the appropriate provisions of the Kentucky Emergency Operations Plan; coordinate the establishment and operation of a state incident management system; establish or manage sub-state or area emergency operations centers, or on-scene command posts; and fully expedite and coordinate the disaster and emergency response of the Commonwealth;

(h) To establish and operate area field offices of the division, each office to be headed by an area manager, responsible for administering the policies, plans, programs, and duties of the division in specific geographic areas of the Commonwealth, including the coordination of comprehensive emergency management programs developed by the cities, counties, urban-county, or charter county governments in the areas;

(i) To provide funds to the cities, counties, and urban-county or charter county governments of the Commonwealth to support the development, administration, operation, and maintenance of local emergency management agencies created pursuant to KRS Chapters 39A to 39F;

(j) To require the regular submission of program administration data, records, materials, reports, or documents from local emergency management agencies as may be necessary and sufficient to conduct performance reviews and assessments to ensure compliance with all state or federal funding and program requirements, and to ensure local program compatibility and consistency with the mission, goals, and objectives of the comprehensive emergency management program and integrated emergency management system of the Commonwealth;

(k) To ascertain the requirements of the Commonwealth and its cities and counties for emergency resources and the necessities of life in the event of disaster or emergency; institute an emergency resource management plan and procure emergency supplies, materials, and equipment; and use or employ in time of emergency any of the property, services, and resources of state or local government in the Commonwealth for the purposes set forth in KRS Chapters 39A to 39F;

(l) To institute public information and education programs, emergency management training programs, and exercise programs to test and evaluate emergency operations plans and disaster and emergency response and recovery capabilities; ***and***

(m)[~~ To assess the threat of and the Commonwealth's capacity for responding to acts of war or terrorism, including but not limited to nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;~~

~~(n) To develop a statewide plan and needs assessment for responding to acts of war or terrorism, including but not limited to nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;~~

~~(o) Develop a comprehensive strategy addressing how state and federal funds and other U.S. Department of Justice assistance will be allocated within the state to purchase specialized equipment required to respond to terrorist incidents effectively and safely;~~

~~(p) Establish as a goal to exceed the minimum requirements established by the U.S. Department of Justice, under congressional direction, for state and local governments receiving assistance needed to enhance their capabilities to respond to terrorist attacks. This goal is established in order for the Commonwealth to emerge as a preeminent national leader in preparation and training to address terrorist incidents involving weapons of mass destruction; and~~

~~(q)~~] To promulgate administrative regulations to carry out the provisions of KRS Chapters 39A to 39F.

Section 5. KRS 36.010 is amended to read as follows:

The Department of Military Affairs shall be attached to the Office of the Governor, have charge of and be responsible to the Governor for the proper functioning of the Kentucky National Guard, militia, and all other military or naval matters of the state, and shall consist of the following offices and divisions:

(1) Office of Management and Administration, containing the:
  (a) Division of Administrative Services;
  (b) Division of Facilities;
  (c) Bluegrass Station Division;
  (d) Division of Air Transport; and
  (e) Logistics Operations Division;

(2) Division of Emergency Management;

(3) Office of the Chief of Staff for Federal Army Guard;

(4) Office of the Chief of Staff for Federal Air Guard;

(5)[~~Office for Security Coordination;~~

~~(6)~~] Kentucky Guard Youth Challenge Division; and

(6)[~~(7)~~] Kentucky Civil Air Patrol.

In order to promote greater efficiency, economy, and improved administration, the divisional structure of the Department of Military Affairs may be changed, redesignated, or reorganized in accordance with KRS Chapter 12. Notwithstanding KRS Chapter 12, the department's attachment to the Office of Governor as a separate organizational unit not attached to any cabinet shall not be changed except by action of the General Assembly.

Section 6. KRS 39A.070 is amended to read as follows:

The director, with the approval of the adjutant general, shall exercise the following powers, responsibilities, and duties:

(1) To represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the Commonwealth;

(2) To coordinate the development of a statewide comprehensive emergency management program, and through it, an integrated emergency management system for the disaster and emergency response of the Commonwealth;

(3) To promulgate administrative regulations and issue orders, directives, standards, rules, procedures, guidance, or recommended practices necessary to coordinate the development, administration, organization, operation, implementation, and maintenance of the statewide comprehensive emergency management program and the integrated emergency management system of the Commonwealth;

(4) To coordinate the development of comprehensive emergency management programs by the cities, counties, and urban-county or charter county governments as functional components of the integrated emergency management system of the Commonwealth;

(5) To supervise the development and maintenance of the Kentucky Emergency Operations Plan, and to review and give concurrence to local emergency operations plans required pursuant to KRS Chapters 39A to 39F;

(6) To coordinate the comprehensive emergency management program of the Commonwealth with the emergency management or other emergency response-related programs of the federal government, and of other states, to the fullest appropriate extent;

(7) To advise the Governor and the adjutant general immediately of the occurrence or threatened or impending occurrence of any disaster or emergency, and to recommend to the Governor any emergency actions, written orders, emergency powers, or executive orders that the Governor should execute***. In the event of a disaster or emergency involving homeland security, the director, the executive director of the Office of Homeland Security, or his or her designee, and the Adjutant General shall make a joint recommendation to the Governor***;

(8) To serve as the Governor's primary liaison with local officials in the event of the occurrence, or threatened or impending occurrence, of any disaster or emergency in the cities, counties, urban-counties, or charter counties of the Commonwealth;

(9) To take any other preparedness or response actions deemed necessary for adequate response to a disaster or emergency situation to include: requesting increased readiness activities by state or local agencies in advance of an actual disaster or emergency; requesting implementation of local emergency operations plans or the activation of local emergency operations centers; requesting reports from state or local agencies regarding emergency situations, damage assessments, or the taking of emergency response actions; and requesting the mobilization or deployment of any trained and equipped forces of state or local government for the disaster and emergency response purposes set forth in KRS Chapters 39A to 39F;

(10) To request and utilize the personnel, equipment, services, and facilities of existing officers and agencies of the Commonwealth and of all political subdivisions and special districts. All these officers and agencies shall fully cooperate with and extend their resources to the director as requested to the extent that local public safety is not unreasonably compromised;

(11) To employ measures and give directions to the state or local boards of health as necessary for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or with the findings or recommendations of the boards of health, because of conditions arising from disasters, emergency situations, national security emergencies, or the threat thereof;

(12) To request and utilize the services of state and local law enforcement officers for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or any order of the Governor pertaining to disaster and emergency response;

(13) On behalf of this Commonwealth, with the approval of the Governor or act of the General Assembly, to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide, local, county, or city basis, or with other states or a province of a foreign country. The mutual aid agreements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; National Guard personnel and resources while under the control of the state; health, medical, and related services;

firefighting; rescue; search and rescue or recovery; urban search and rescue; hazardous materials response services, transportation and construction services and equipment; personnel necessary to provide or conduct these services and other supplies, equipment, facilities, personnel, and services as needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, firefighting, search and rescue, and police units, and health units; and on the terms and conditions deemed necessary;

(14) To sponsor and develop mutual aid plans and agreements among the urban-county or charter county governments, counties, cities, and other political subdivisions and special districts of the Commonwealth, similar to the mutual aid arrangements with other states referred to in subsection (13) of this section;

(15) To procure motor vehicles, radio and telecommunications equipment, protective clothing, safety equipment, and other necessary supplies and materials to meet the emergency response, operational, and administrative needs of the division;

(16) To identify deficiencies existing in the emergency management program organization, facilities, and capabilities of the Commonwealth, including but not limited to: personnel and administrative resources; state, sub-state, area, or local emergency operations centers; mobile command posts; emergency telecommunications and computer systems; alerting and warning systems; stockpiles of critical resources; or any other necessary elements, and to recommend to the adjutant general, for consideration by the Governor or the General Assembly or other appropriate funding authority, the administrative or operational funding requirements, and long-range capital construction or improvement projects needed to meet the emergency management infrastructure needs of the Commonwealth;

(17) To serve as the state coordinating officer and notify the Governor of the appropriations necessary to fund the expected emergency operational or response costs of the division, and the Commonwealth's share of the grants provided by Pub.L.No. 93-288, Title V, Federal Disaster Assistance Programs as amended by Pub.L.No. 100-707, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or successor acts or titles, and further, take action necessary to ensure entitlement to all other federal relief or assistance programs;

(18) To cooperate with the President of the United States, the Federal Emergency Management Agency, and other appropriate federal offices and agencies, and the offices and agencies of other states in matters pertaining to the comprehensive emergency management program of the Commonwealth and nation; and in connection with these, to take any measures considered necessary to implement any request of the President and the appropriate federal offices and agencies, for any action requiring effective disaster and emergency response, including the direction or control and mobilization of disaster and emergency response forces; tests and exercises, warnings, and signals for drills or other emergency response activities and the mechanical devices to be used in connection with these; the shutting off of water mains, gas mains, electric power connections, and the suspension of all other utility services; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to a drill, emergency, declared emergency, or disaster; public meetings or gatherings; and the evacuation and sheltering of the civilian population; ***and***

(19)[~~To develop a statewide plan and needs assessment for responding to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism; and~~

~~(20)~~] To delegate any authority vested in the director under KRS Chapters 39A to 39F and to provide for the subdelegation of any such authority.

Section 7. KRS 11.5163 is amended to read as follows:

(1) The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the chief information officer for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.

(3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the chief information officer, the Governor's Office for Policy and Management, and the General Assembly.

(4) The chief information officer shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.

(5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, Governor's Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Division of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office ***of Homeland***~~[for]~~ Security~~[Coordination, Department of Military Affairs]~~;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(6) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(7) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(8) The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(9) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(10) The committee may establish additional working groups as determined by the committee.

Section 8. KRS 39A.283 is amended to read as follows:

KRS 39A.050, 39A.070, ***and*** 39A.285~~[, and 39A.287]~~ may be cited as the Antiterrorism Act of 2002.

Section 9. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 10. Any provision of law to the contrary notwithstanding, the General Assembly confirms the Governor's Executive Order 2004-530, dated May 27, 2004, relating to the Office of Homeland Security, to the extent it is not otherwise confirmed or superseded by this Act.

Section 11. The following KRS sections are repealed:

36.224 Office for Security Coordination -- Federal homeland security funding.

39A.287 Preparedness of Commonwealth to respond to acts of war or terrorism -- Annual assessment.

Introduction of New Bills and Resolutions

SB 92, AN ACT relating to amendments to vital statistics, by Senator Roeding.

SB 93, AN ACT relating to state emblems, by Senators Pendleton, Mongiardo, Scorsone, Neal, Rhoads, Boswell, Harper Angel, Worley, Carroll, Leeper, Palmer, and Turner.

SB 94, AN ACT relating to annexation and declaring an emergency, by Senator Guthrie.

SB 95, AN ACT relating to fire protection sprinkler contractors' liability insurance, by Senator Guthrie.

SB 96, AN ACT relating to crimes and punishments, by Senators Gibson, Ridley, Pendleton, Tapp, Seum, Kelly, and Tori.

SB 97, AN ACT relating to group life insurance, by Senator Denton.

SB 98, AN ACT relating to abortion, by Senator Westwood.

SB 99, AN ACT relating to official designations, by Senator Sanders.

SB 100, AN ACT relating to liens for labor, by Senator Westwood.

SB 101, AN ACT relating to county ordinances, by Senator Roeding.

SB 102, AN ACT relating to the Kentucky Parole Board and declaring an emergency, by Senator Scorsone.

SB 103, AN ACT relating to food establishments, by Senators Tapp, Boswell, Thayer, Leeper, Pendleton, Seum, Gibson, Tori, McGaha, and Borders.

SB 104, AN ACT relating to sanitation districts, by Senator Thayer.

SB 105, AN ACT relating to fees, by Senator Harris.

SB 106, AN ACT relating to crimes and punishments, by Senators Kerr and Roeding.

SB 107, AN ACT relating to the Board of Pharmacy, by Senator Winters.

SR 62, A RESOLUTION adjourning the Senate in loving memory and honor of Martha Jaynes Rassenfoss, by Senators Westwood, Stine, Thayer, Roeding, Tori, McGaha, and Seum.

SR 63, A RESOLUTION requesting that the Commonwealth of Kentucky's United States Senators support the President's nominees to the United States Supreme Court, by Senator Roeding.

SCR 64, A CONCURRENT RESOLUTION urging the United States Congress to mandate the Federal Railroad Administration to conduct a rule-making process on the use of unmanned remote control locomotives, by Senator Turner.

SJR 65, A JOINT RESOLUTION naming the "Col. Andrew Jackson May Bridge" in Johnson County, by Senators Turner and Jones.

Recess

Senator Kelly moved to recess the Senate for ten minutes for a Committee on Rules and a Committee on Committees meeting in Room 327. Agreed.

The President called the Senate to order.

Reference of Bills and Resolutions

The Clerk reported the following bills and resolutions had been referred by the Committee on Committees:

Agriculture and Natural Resources: **SR 55, SB 68**

Appropriations and Revenue: **SB 50**

Banking and Insurance: **SB 67, SB 86**

Education: **SB 64, SB 70, SB 71**

Judiciary: **SR 48, SR 49, SR 50, SR 51; SR 52, SR 53, SR 54, SR 56, SR 57, SR 58, SB 63**

Licensing, Occupations, and Administrative Regulations: **SB 65, SB 66, SB 73, SB 74**

State and Local Government: **SR 30, SB 69, SB 83**

Transportation: **SB 77**

To Senate Floor: **SR 37, SR 38, SR 40, SR 41, SR 42, SR 43, SR 44, SR 45, SR 46, SR 47, SR 59, SR 60, SR 61**

Motions, Petitions and Communications

Senator Roeding moved to withdraw **SB 87**. Agreed.

Senator Boswell moved to be shown as a co-sponsor of **SB 98**. Agreed.

Senator Buford moved to adopt **SR 33**. Agreed.

SR 33 is as follows:

SR 33, A RESOLUTION adjourning the Senate in loving memory and honor of Michael Bruce Zirnheld.

With deepest respect and admiration, we pay homage and tribute to Michael Bruce Zirnheld, and we pause in silent reverence for his soul.

WHEREAS, Michael Bruce Zirnheld was born on November 25, 1955, a native of Louisville, Jefferson County, Kentucky, and a resident of Danville, Boyle County, Kentucky, and he traversed these earthly bounds on December 24, 2004; and

WHEREAS, Michael Bruce Zirnheld was the loving son of Deanie Zirnheld of Louisville, and he was the loving son of his father and stepmother, Bruce and Cindy Zirnheld of Muncie, Indiana; he was the devoted husband of Rita Hester Zirnheld; he was the loving father of three daughters, Lindsay H. Zirnheld and Halee Denise Zirnheld, both of Danville, and Blair Michelle Zirnheld of Omaha, Nebraska; he was the loving brother of Greg E. Zirnheld and Denise Zirnheld Bohn, both of Louisville, and a half-sister, Sarah Zirnheld of Muncie, Indiana; and he also leaves behind a loving aunt, Eva Tharp of Louisville; and

WHEREAS, Michael Bruce Zirnheld graduated from Iroquois High School in Louisville; he attended Eastern Kentucky University, and at the time of his passing, he was a restoration manager for Kentucky Utilities; and

WHEREAS, the passing of Michael Bruce Zirnheld has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Michael Bruce Zirnheld, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Michael Bruce Zirnheld.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to Mrs. Rita Hester Zirnheld, 1374 Quirks Run Road, Danville, Kentucky 40422.

Senator Harper Angel moved to be shown as a co-sponsor of **SB 23, SB 24,** and **SB 25**. Agreed.

Senator Scorsone moved to be shown as a co-sponsor of **SB 24** and **SB 23**. Agreed.

Senator Roeding moved to adopt **SR 19**. Agreed.

SR 19 is as follows:

SR 19, A RESOLUTION adjourning the Senate in loving memory and honor of Carl J. Ruh.

With deepest respect and admiration, we pay homage and tribute to Carl J. Ruh, and we pause in silent reverence for his soul.

WHEREAS, Carl J. Ruh was born on May 18, 1916, a native of Covington, Kenton County, Kentucky, and he traversed these earthly bounds on November 25, 2004; and

WHEREAS, Carl J. Ruh was the loving son of the late Joseph and Katherine Bruemmer Ruh; he was the devoted husband of the late Josephine E. Ruh; he was the loving father of a son, Joe Ruh of Fort Mitchell, and a daughter, Karen Johnson of Melbourne; he was the proud grandfather of four grandchildren; and he was the proud great-grandfather of a great-grandson; and

WHEREAS, Carl J. Ruh graduated from Covington Catholic High School, where he also worked as the school's first lay teacher, teaching history, political science, and typing; he earned a bachelor's degree in business from the University of Dayton, and he later studied law at Northern Kentucky University's Salmon P. Chase Law School and at the University of Cincinnati Law School; and

WHEREAS, Carl J. Ruh was an esteemed member of the Northern Kentucky community, where he was a member of Blessed Sacrament Church in Fort Mitchell; he was handicapped and used crutches or a wheelchair most of his life, but this did not discourage his optimism throughout his life, and he was an outstanding example of overcoming barriers; and

WHEREAS, Carl J. Ruh was no stranger to politics; he was a devoted member of the Democratic Party and represented his constituents from Kenton County with honesty and integrity while serving in the House of Representatives from 1950 to 1954 and from 1970 to 1972 and in the Kentucky Senate from 1954 to 1958; while serving in the Legislature, he was instrumental in passing legislation that required safety glass in storm doors to help prevent accidents, and he also was proud of his work on handicap accessibility to the Capitol and other state buildings, including interstate highway rest stops; he also was a strong advocate of Kentucky's state park system; in 1995, the General Assembly honored him for his many years of service to the handicapped; he was appointed Kenton County Sheriff in 1959 and was elected to the post in 1961; and he also spent 10 years as Kentucky's commissioner of occupational safety and health review; and

WHEREAS, the passing of Carl J. Ruh has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow at the passing of Carl J. Ruh, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Carl J. Ruh.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to Mr. Joe Ruh, 5 Ross Avenue, Ft. Mitchell, Kentucky 41017.

Adjournment

Senator Kelly moved to adjourn the Senate until 2:00 p.m., Thursday, February 3, 2005. Agreed.

THURSDAY, FEBRUARY 3, 2005
SEVENTH LEGISLATIVE DAY

The Senate was called to order by President Williams.

Prayer by the Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Pledge of Allegiance to the Flag was given.

The roll was called. All senators were present.

Senator Kelly moved to approve the Journal of Wednesday, February 2, 2005. Agreed.

Calendar

SB 11 with Committee Substitute, **SB 13**, **SB 18**, **SB 43** with Committee Substitute, and **SB 44** with Committee Substitute taken from the Calendar and ordered read at length for the second time. Senator Kelly moved that they be read by title only. Agreed by a majority of the members elected. Referred to the Committee on Rules.

Report of Committees

The Committee on Agriculture and Natural Resources reported **SB 41** with expression of opinion that same should pass. Referred to the Committee on Rules.

The Committee Substitute to **SB 41** is as follows:

SB 41, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development,[~~ the Public Protection and Regulation Cabinet,~~] the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet,[~~ the Labor Cabinet,~~] the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.

5. Department of the Treasury.
    (a) Treasurer.
6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
        (1) Kentucky Board of Education.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Operations and Development Office.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.
    (o) Board of Directors for the Center for School Safety.
3. ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet:
    (a) ***Office of the Secretary***[~~Environmental Quality Commission~~].
        1. Office of Legislative and Intergovernmental Affairs.
        2. Office of Communications and Public Outreach.
        3. Office of Regulatory Affairs.
        4. Office of Legal Services.
        5. Office of Administrative and Information Services.
        6. Office of Administrative Hearings.
        7. Office of Inspector General.
        8. Mine Safety Review Commission.
        9. Workers' Compensation Board.
        10. Kentucky State Nature Preserves Commission.
        11. Kentucky Environmental Quality Commission.

12. Kentucky Occupational Safety and Health Review Commission.

(b) ***Department for Environmental Protection***[~~Kentucky Nature Preserves Commission~~].

1. Office of the Commissioner.
2. Division of Air Quality.
3. Division of Water.
4. Division of Environmental Services.
5. Division of Waste Management.
6. Division of Enforcement.
7. Division of Compliance Assistance.

(c) Department for ***Natural Resources***[~~Environmental Protection~~].

1. Office of the Commissioner.
2. Office of Technical and Administrative Support.
3. Division of Mine Permits.
4. Division of Mine Reclamation and Enforcement.
5. Division of Abandoned Mine Lands.
6. Division of Oil and Gas Conservation.
7. Office of Mine Safety and Licensing.
8. Division of Forestry.
9. Division of Conservation.

(d) Department ***of Public Protection***[~~for Natural Resources~~].

1. Office of the Commissioner.
2. Division of Administrative Services.
3. Crime Victims Compensation Board.
4. Board of Claims.
5. Board of Tax Appeals.
6. Kentucky Athletic Commission.
7. Kentucky Horse Racing Authority.
8. Kentucky Public Service Commission.
9. Office of Alcoholic Beverage Control.
10. Office of Charitable Gaming.
11. Office of Financial Institutions.
12. Office of Housing, Buildings and Construction.
13. Office of Insurance.

(e) Department ***of Labor***[~~for Surface Mining Reclamation and Enforcement~~].

1. Office of the Commissioner.
2. Office of Occupational Safety and Health.
3. Office of Labor Management Relations and Mediation.
4. Office of Workplace Standards.
5. Office of Workers' Claims.
6. Workers' Compensation Funding Commission.
7. Kentucky Labor Management Advisory Council.
8. Occupational Safety and Health Standards Board.
9. Prevailing Wage Review Board.
10. Kentucky Employees Insurance Association.
11. Apprenticeship and Training Council.
12. State Labor Relations Board.
13. Workers' Compensation Advisory Council.
14. Workers' Compensation Nominating Commission.
15. Employers' Mutual Insurance Authority.

16. Division of Administrative Services.
[~~(f) Office of Legal Services.~~
~~(g) Office of Information Services.~~
~~(h) Office of Inspector General.~~]
4. Transportation Cabinet:
(a) Department of Highways.
1. Office of Program Planning and Management.
2. Office of Project Development.
3. Office of Construction and Operations.
4. Office of Intermodal Programs.
5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.
(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.
5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.
6.[~~Environmental and Public Protection Cabinet:~~
~~(a) Public Service Commission.~~
~~(b) Department of Insurance.~~
~~(c) Department of Housing, Buildings and Construction.~~
~~(d) Department of Financial Institutions.~~
~~(e) Department of Mines and Minerals.~~
~~(f) Department of Public Advocacy.~~
~~(g) Department of Alcoholic Beverage Control.~~
~~(h) Kentucky Horse Racing Authority.~~
~~(i) Board of Claims.~~
~~(j) Crime Victims Compensation Board.~~
~~(k) Kentucky Board of Tax Appeals.~~
~~(l) Office of Petroleum Storage Tank Environmental Assurance Fund.~~
~~(m) Department of Charitable Gaming.~~
~~(n) Mine Safety Review Commission.~~
~~7.~~] Cabinet for Families and Children:

(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
  (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Human Resource Management.

7.[~~8.~~] Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

8.[~~9.~~] Finance and Administration Cabinet:
(a) Office of Financial Management.
(b) Office of the Controller.
(c) Department for Administration.
(d) Department of Facilities Management.
(e) State Property and Buildings Commission.
(f) Kentucky Pollution Abatement Authority.
(g) Kentucky Savings Bond Authority.
(h) Deferred Compensation Systems.
(i) Office of Equal Employment Opportunity Contract Compliance.
(j) Office of Capital Plaza Operations.
(k) County Officials Compensation Board.
(l) Kentucky Employees Retirement Systems.
(m) Commonwealth Credit Union.
(n) State Investment Commission.
(o) Kentucky Housing Corporation.
(p) Governmental Services Center.
(q) Kentucky Local Correctional Facilities Construction Authority.
(r) Kentucky Turnpike Authority.
(s) Historic Properties Advisory Commission.
(t) Kentucky Tobacco Settlement Trust Corporation.
(u) Eastern Kentucky Exposition Center Corporation.
(v) State Board for Proprietary Education.

9.[~~10. Labor Cabinet:~~
~~(a) Department of Workplace Standards.~~
~~(b) Department of Workers' Claims.~~
~~(c) Kentucky Labor-Management Advisory Council.~~

~~(d) Occupational Safety and Health Standards Board.~~
~~(e) Prevailing Wage Review Board.~~
~~(f) Workers' Compensation Board.~~
~~(g) Kentucky Employees Insurance Association.~~
~~(h) Apprenticeship and Training Council.~~
~~(i) State Labor Relations Board.~~
~~(j) Kentucky Occupational Safety and Health Review Commission.~~
~~(k) Office of Administrative Services.~~
~~(l) Office of Information Technology.~~
~~(m) Office of Labor-Management Relations and Mediation.~~
~~(n) Office of General Counsel.~~
~~(o) Workers' Compensation Funding Commission.~~
~~(p) Employers Mutual Insurance Authority.~~
~~11.~~] Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.
10.[~~12.~~] Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.
11.[~~13.~~] Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.
(g) The Foundation for Adult Education.
(h) Department for Training and Reemployment.
(i) Office of General Counsel.
(j) Office of Communication Services.
(k) Office of Workforce Partnerships.
(l) Office of Workforce Analysis and Research.
(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.
12.[~~14.~~] Personnel Cabinet:
(a) Office of Administrative and Legal Services.

(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6)[~~ Public Protection and Regulation Cabinet.~~
~~(7)~~] Cabinet for Health Services.
(7)[~~(8)~~] Cabinet for Families and Children.
(8)[~~(9)~~] Finance and Administration Cabinet.
(9)[~~(10)~~] Tourism Development Cabinet.
(10)[~~(11)~~] Revenue Cabinet.
[~~(12) Labor Cabinet.~~]
(11)[~~(13)~~] Cabinet for Workforce Development.
(12)[~~(14)~~] Personnel Cabinet.

SECTION 4. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

There is established in the Office of the Secretary, an Office of Communications and Public Outreach, an Office of Administrative Hearings, an Office of Regulatory Affairs, an Office of Legislative and Intergovernmental Affairs, an Office of Inspector General, an Office of Legal Services, and an Office of Administrative and Information Services. Each office shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive directors shall be directly responsible to the secretary and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary. The Workers' Compensation Board and the Kentucky Occupational Safety and Health Review Commission shall be attached to the Office of the Secretary. The Environmental Quality Commission, which shall be headed by an executive director appointed by the secretary with the approval of the Governor, shall be attached to the Office of the Secretary. The Kentucky State Nature Preserves Commission, which shall be headed by a director, and the Mine Safety Review Commission, whose members shall be appointed by the Governor with the consent of the General Assembly, shall be attached to the Office of the Secretary.

SECTION 5. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the powers and duties set out in this and other chapters of the Kentucky Revised Statutes that are vested in the cabinet and the secretary to protect and enhance the state's natural resources and environment, the cabinet and the secretary are also vested with the powers and duties previously vested in the Public Protection and Regulation Cabinet and the Labor Cabinet, and the secretaries of those cabinets, so long as those powers and duties are not contrary to or in conflict with the organization of the cabinet established by statute or by executive order of the Governor, as ratified by the General Assembly.

(2) The Division of Energy shall be transferred to the Tourism Development Cabinet, Office of the Secretary. All personnel, functions, powers, and duties of the Division of Energy, not contrary to or in conflict with the organization of the Tourism Cabinet, as established by statute or by executive order of the Governor as ratified by the General Assembly, shall be transferred to the Tourism Development Cabinet.

Section 6. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of *twenty-five (25)*[~~twenty six (26)~~] members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the *Environmental and Public*[~~Natural Resources and Environmental~~] Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;

14.[~~ The secretary of the Public Protection and Regulation Cabinet or his designee;~~

~~15.~~] The secretary of the Tourism Development Cabinet or his designee;

15.[~~16.~~] Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;

16.[~~17.~~] Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;

17.[~~18.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

18.[~~19.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

19.[~~20.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

20.[~~21.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

21.[~~22.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

22.[~~23.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 7. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels,

commissioners, deputy commissioners, ***executive directors,*** principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

  (a) The Governor;

  (b) The Lieutenant Governor;

  (c) The Secretary of State;

  (d) The Attorney General;

  (e) The Treasurer;

  (f) The Commissioner of Agriculture;

  (g) The Auditor of Public Accounts; and

  (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally; and

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public.

Section 8. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

  (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

  (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

  (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

  (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

  (e) Administrative hearings conducted by the legislative and judicial branches of state government;

  (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet
    1. Higher Education Assistance Authority
        a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
        b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) Cabinet for Health Services
    1. Office of Certificate of Need
        a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
        b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for Families and Children
    1. Department for Community Based Services
        a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
    2. Department for Disability Determination Services
        a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet
    1. Department of State Police
        a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
    2. Department of Corrections
        a. Parole Board hearings conducted under authority of KRS Chapter 439
        b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
        c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
    3. Department of Juvenile Justice
        a. Supervised placement revocation hearings conducted under KRS Chapter 635

(e)[~~Labor Cabinet~~
    ~~1. Department of Workers' Claims~~
        ~~a. Workers' compensation hearings conducted under authority of KRS Chapter 342~~

~~(f)~~] ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet
    1. Department for ***Natural Resources***[~~Surface Mining Reclamation and Enforcement~~]
        a. Surface mining hearings conducted under authority of KRS Chapter 350
    2. Department for Environmental Protection
        a. Wild River hearings conducted under authority of KRS Chapter 146
        b. Water resources hearings conducted under authority of KRS Chapter 151
        c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
        d. Environmental protection hearings conducted under authority of KRS Chapter 224
        e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
    3. Office of Workers' Claims

a. Workers' compensation hearings conducted under authority of KRS Chapter 342

4.[~~(g)~~] Kentucky Occupational Safety and Health Review Commission

a.[~~1.~~] Occupational safety and health hearings conducted under authority of KRS Chapter 338

5.[~~(h)~~] ***Department of*** Public Protection[~~ and Regulation Cabinet~~]

a.[~~1.~~] Board of Claims

aa[~~a.~~] Liability hearings conducted under authority of KRS Chapter 44

b.[~~2.~~] Public Service Commission

aa[~~a.~~] Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(f)[~~(i)~~] Cabinet for Workforce Development

1. Department for Employment Services

a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(g)[~~(j)~~] Secretary of State

1. Registry of Election Finance

a. Campaign finance hearings conducted under authority of KRS Chapter 121

(h)[~~(k)~~] State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164

2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164

3. Campus residency hearings conducted under authority of KRS Chapter 164

4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 9. KRS 15.255 is amended to read as follows:

(1) The Department of Law shall have the following powers, duties and functions:

(a) To prevent or remedy damage to the environment caused by any person, group, partnership, association, body corporate or politic, or any agency, department, board, commission, division, or authority, whether state or federal, or by commencing or intervening in any suit or action in state or federal courts, whether civil or criminal, to enforce any statute, ordinance, bylaw, or regulation, or to secure any common-law right or remedy;

(b) To counsel state agencies and commissions given the responsibility over environmental concerns including but not limited to the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet[~~, Department of Mines and Minerals,~~] and the Public Service Commission;

(c) To exercise the common-law powers of the Attorney General in protecting the environment;

(d) To bring public nuisance and other actions in Circuit Courts in the name of the Commonwealth upon complaint by private citizens, when in the opinion of the Attorney General the activity or activities complained of may have a substantial impact upon the environment of the Commonwealth; and

(e) To develop guidelines related to the proper investigation of sexual misconduct by professionals which may be adopted by professional licensure boards.

(2) Nothing in this section shall be interpreted to derogate from any existing common-law or statutory right or remedy against damage to the environment.

Section 10. KRS 39F.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "General rescue squad" means a rescue squad which performs one (1) or more of the following functions as a stated mission of the organization:

(a) Light duty rescue;

(b) Extrication of persons from vehicles;

(c) Water rescue and recovery operations not utilizing divers;

(d) Search for lost, trapped, or missing persons not utilizing dogs;

(e) Low angle rescue and recovery operations;

(f) High angle rescue and recovery operations.

(2) "Reports and notification" means the reporting and notification of any search and rescue mission to the appropriate agency or person in the manner as specified by this chapter.

(3) "Rescue" means gaining access, rendering appropriate care, and transporting of a person or persons by whatever means, to a safe environment for appropriate care.

(4) "Rescue squad" means any organization which engages in the search for lost persons, rescue of persons, rescue of persons who are trapped or who are in need of rescue services, search for and recovery of drowned persons, or any other rescue related activity. "Rescue squad" shall not include the rescue of persons from a fire by a fire department, the extrication of persons from a vehicle or other activities which an emergency medical technician, emergency medical technician first responder, or paramedic is authorized to perform pursuant to applicable statutes and administrative regulations, if the activities are performed by a person for an ambulance service or in the role of a first responder. If these activities are performed other than as a first responder or in the role of an ambulance service and are involved in rescue operations, they come within the purview of activities of a rescue squad.

(5) "Search" means the process of looking for a person or persons whose location is not precisely known, and who may be in distress.

(6) "Search and rescue" ("SAR") means the process of looking for a lost, missing, or overdue person or persons who may be in distress, and rendering care with the use of appropriately trained and adequately equipped personnel.

(7) "Search and rescue mission" includes, but is not limited to, searching for a missing or lost person or persons, cave rescue, high angle or rough terrain rescue, urban search and rescue, dive rescue and recovery of drowning victims, inland water search, rescue, and recovery. "Search and rescue" may also include any mission permitted pursuant to this chapter. A "search and rescue mission" does not include mine rescue missions under the jurisdiction of the Department ***for Natural Resources***[~~of Mines and Minerals~~] pursuant to KRS Chapter 351.

(8) "Specialized rescue squad" means a rescue squad which performs one (1) or more of the following functions as the primary or sole mission of the organization:

(a) Cave rescue;

(b) Search utilizing dogs for lost, trapped or missing persons;

(c) Search for lost, trapped or missing persons, aircraft, or vehicles, utilizing aircraft, but does not apply to licensed air ambulances, active or reserve military organizations, the National Guard, or the Civil Air Patrol; and

(d) Water rescue and recovery operations utilizing divers.

(9) "Victim recovery" means the search for and the removal to the jurisdiction of the coroner of the remains of a person known or believed to be dead. If the person is found alive, it includes rescue of the person.

Section 11. KRS 45A.610 is amended to read as follows:

[~~(1)~~]By January 1, 1991, a minimum of fifteen (15) percent of the purchases of garbage can liners by state agencies shall be starch-based plastic garbage can liners. The percentage shall increase by five (5) percent annually until fifty (50) percent of the purchase of garbage can liners are purchases of starch-based plastic garbage can liners.

[~~(2) The Natural Resources and Environmental Protection Cabinet shall perform tests and experiments to determine whether or not it is advantageous for the Commonwealth to require use of starch-based biodegradable products or containers. The cabinet shall report its findings to the 1992 Regular Session of the General Assembly.~~]

Section 12. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor, Lieutenant Governor, and the

Superintendent of Public Instruction, the heads of departments***, offices,*** and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education, arts, and humanities	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Commissioner[~~Secretary~~] of labor	5,000
Commissioner ***for natural resources***[~~of surface mining reclamation and enforcement~~]	50,000
State librarian	5,000
[~~Commissioner of mines and minerals~~	~~5,000~~]
Executive director[~~Commissioner~~] of alcoholic beverage control	10,000
Executive director[~~Commissioner~~] of financial institutions	25,000
Secretary for ***environmental and public protection***[~~natural resources and environmental protection~~]	10,000
Executive director[~~Commissioner~~] of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health services	20,000
Secretary for families and children	20,000
Commissioner ***of***[~~for~~] environmental protection	10,000
Commissioner of[~~Secretary for~~] public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 13. KRS 68.178 is amended to read as follows:

(1) The fiscal court of any county may license off-site waste management facilities located within the county with the imposition of a license fee at a percentage rate not to exceed two percent (2%) per annum of the gross receipts of such a waste management facility owned or operated by self-employed individuals, partnerships, or corporations. The proceeds from the license fee shall be used to defray the general revenue requirements of the county where the facility is located. For purposes of assessing the licensing fee provided for in this section, off-site waste management shall consist of establishing

and operating a facility whose principal purpose is treatment, storage, disposal, or a combination of these activities but shall not include those treatment, storage, or disposal activities which occur incidental to or which are not otherwise distinguishable from a broader manufacturing operation at the site of said operation.

(2) (a) The fiscal court of a county or the urban-county council of an urban-county government may license a solid waste landfill located within the county or urban-county area. The license fee may be set at not less than one cent ($0.01) but no more than fifty cents ($0.50) per ton of waste received by the landfill or set at up to five percent (5%) of gross receipts of the landfill.

(b) The license fee as set may be increased by an amount up to one-quarter (1/4) of the base fee per ton or on gross receipts of waste received at the landfill which originates from outside of the planning area. For purposes of this section, planning area shall mean those areas within Kentucky as indicated in solid waste management plans filed with the cabinet by a county, multicounty area, or waste management district. However, before a fee differential may be imposed the county or urban-county government shall demonstrate that the differential is reasonably related to additional government services which must be undertaken because of the landfilling of nonplanning area waste. This demonstration may be made by showing an unplanned for reduction in waste disposal capacity and a need to provide for future disposal capacity or impacts on roads, litter control or emergency services.

(c) The proceeds from the license fee shall be used to defray the government services provided to the landfill, necessary clean-up operations or emergency responses related to operation of the landfill or transporting waste to the landfill, necessary maintenance, improvement or construction of roads, and for the general revenue requirements of the county or urban-county government where the landfill is located.

(d) ~~[Five percent (5%) of the license fee shall be remitted annually to the Natural Resources and Environmental Protection Cabinet until July 30, 1990. The cabinet shall use the amount received for state solid waste management activities.]~~Ten percent (10%) ***of the license fee*** shall be remitted annually in equal shares to all counties and urban-county governments in the planning area served by the landfill from where the fees originated which shall be used for local solid waste planning and plan implementation. Counties or urban-county governments desiring to impose the fee provided for herein are authorized to accept payments in lieu of the fee under duly-executed contracts between the county and the permitted site or facility. The fee provided for in this subsection shall be in lieu of the provisions of subsection (1). Special waste, as defined in KRS 224.50-760, except for waste from sanitary wastewater treatment facilities, shall be exempt from this subsection.

(3) In the case of hazardous waste facilities involving land disposal, including a regional integrated waste treatment and disposal demonstration facility as defined in KRS Chapter 224, the rate levied under this section shall be not more than five percent (5%) per annum of the gross receipts and shall be calculated so as to produce sufficient revenue to compensate the county for any additional costs incurred by it from having a hazardous waste facility located in its jurisdiction, including, but not limited to, the loss of ad valorem property tax revenues from the property on which the facility is located, the loss of ad valorem property tax revenues from abutting properties or other affected properties, the cost of providing any additional emergency services, the cost of monitoring air, surface water, ground water to the extent that other monitoring data is not available, and other costs established as being associated with the facility and for which the county is not otherwise compensated.

Section 14. KRS 131.190 is amended to read as follows:

(1) No present or former secretary or employee of the Revenue Cabinet, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the cabinet or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the secretary or any employee of the Revenue Cabinet from testifying in any court, or from introducing as evidence returns or reports filed with the cabinet, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The secretary or the secretary's designee may provide an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer.

(2) The secretary shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the cabinet shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the Revenue Cabinet under the gasoline excise tax law may be made public by the cabinet.

(4) Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Revenue Cabinet, or any other person.

(5) Statistics of crude oil as reported to the Revenue Cabinet under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Revenue Cabinet under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the cabinet by release to the ***Environmental and Public Protection Cabinet,*** Department ***for Natural Resources***[~~of Mines and Minerals~~].

(6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the cabinet may make public or divulge only those portions of mine maps submitted by taxpayers to the cabinet pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

Section 15. KRS 137.132 is amended to read as follows:

(1) As used in this section, "recovered inactive well" means a well that has been inactive for a consecutive two (2) year period or a well that has been plugged and abandoned, as determined by the ***Environmental and Public Protection Cabinet, Division of Oil and Gas Conservation***[~~Department of Mines and Minerals~~], and that resumes producing crude petroleum oil.

(2) Every taxpayer engaged in the production of crude petroleum oil within this Commonwealth shall be allowed a credit against the tax imposed under KRS 137.120 equal to four and one-half percent (4.5%) of the market value of crude petroleum oil that is produced from a recovered inactive well.

Section 16. KRS 143A.033 is amended to read as follows:

(1) As used in this section, "recovered inactive well" means a well that has been inactive for a consecutive two (2) year period or a well that has been plugged and abandoned, as determined by the ***Environmental and Public Protection Cabinet, Division of Oil and Gas Conservation***[~~Department of Mines and Minerals~~], and that resumes producing natural gas.

(2) Every taxpayer engaged in severing or processing natural gas within this Commonwealth shall be allowed a credit against the tax imposed under KRS 143A.020 equal to four and one-half percent (4.5%) of the gross value of natural gas that is produced from a recovered inactive well.

Section 17. KRS 148.876 is amended to read as follows:

(1) The power of eminent domain may only be exercised to acquire land in fee within the boundaries of the trail, except that the power of eminent domain shall not be exercised to acquire any privately owned dwelling, areas designated for residential structures and their surrounding properties, or property owned or leased, including adjacent or contiguous tracts of land leased or owned or which may be acquired, for the purposes of operating an oil or gas well, surface or underground coal mine operation, or surface or underground mineral quarrying operation, if the person holds a state permit or license issued by the ***Environmental and Public Protection Cabinet, Division of Mine Permits or Office of Mine Safety and Licensing***[~~Department of Surface Mining Reclamation and Enforcement or the Department of Mines and Minerals~~].

(2) Within the boundaries of the trail, the department may acquire, on behalf of the Commonwealth, fee title or lesser interests in land. Acquisition of land may be by gift, by purchase with donated funds, by funds appropriated by the General Assembly, by the use of proceeds from the sale of bonds, by exchange, by assumption of property tax payments, or by other authorized means. Notwithstanding the provisions in KRS 350.085(3) and 353.610, in acquiring any interests the Commonwealth or its agencies shall waive the three hundred (300) foot restriction contained in KRS 350.085(3) and boundary restrictions for a well set forth in KRS 353.610.

Section 18. KRS 151.629 is amended to read as follows:

(1) There is established an Interagency Technical Advisory Committee on Groundwater to assist the KGS in the development, coordination, and implementation of a groundwater monitoring network for the Commonwealth. The committee shall consist of one (1) representative from each of the following agencies, to be appointed by that agency:

(a) Division of Conservation of the Department for Natural Resources;

(b) Division of Environmental Health and Community Safety of the Cabinet for Health Services;

(c) Division of Forestry of the Department for Natural Resources;

(d) Division of Environmental Services of the Department of Agriculture;

(e) Division of Waste Management of the Department for Environmental Protection;

(f) Division of Water of the Department for Environmental Protection;

(g) Department for Environmental Protection;

(h)[~~ Department of Mines and Minerals of the Public Protection and Regulation Cabinet;~~

~~(i)~~] Department for Natural Resources;

(i)[~~(j) Department for Surface Mining Reclamation and Enforcement;~~

~~(k)~~] Kentucky Geological Survey;

(j)[~~(l)~~] University of Kentucky College of Agriculture; and

(k)[~~(m)~~] University of Kentucky Water Resources Research Institute.

(2) The committee shall have two (2) nonvoting legislative liaisons who shall be members of the General Assembly. One (1) liaison shall be a House member appointed by the Speaker of the House of Representatives and one (1) liaison shall be a Senate member appointed by the President of the Senate. The chair of the committee shall be the director of the University of Kentucky Water Resources Research Institute. The duties and responsibilities of the committee shall include:

(a) Developing a plan to coordinate agencies for the overall characterization of the state's groundwater, including occurrence, flow systems, water quantity, and water quality;

(b) Reviewing the data entry process to ensure that all data collected is placed into the Kentucky Groundwater Data Repository;

(c) Establishing a long-term groundwater monitoring plan for the Commonwealth;

(d) Making recommendations for prioritization of the state's groundwater research needs; and

(e) Annually reviewing and evaluating groundwater data collection and analysis.

(3) In addition to the members identified in subsection (1) or (2) of this section, the committee may have, as one (1) of its members, one (1) nonvoting representative from the United States Geological Survey, appointed by that agency.

Section 19. KRS 154.47-025 is amended to read as follows:

The board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board, including, but not limited to, the following:

(1) Developing, in conjunction with other agencies, workforce training plans for the secondary wood products industry as provided for in KRS 154.47-055;

(2) Reviewing and recommending to the Cabinet for Economic Development the approval of proposals to establish business networks for businesses and industries engaged in any value-added processing of raw wood products or the manufacturing of wood products as set forth in KRS 154.47-040, and cooperating with the Cabinet for Economic Development to promote the development of business networks among secondary wood products businesses and industries;

(3) Advising the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet[~~ and the Labor Cabinet~~] on regulatory matters which impact the economic competitiveness and development of the state's secondary wood products industry;

(4) Advising the ***Department of*** Labor[~~ Cabinet~~] regarding modifications to the state workers' compensation laws in an effort to make Kentucky's secondary wood products industry more competitive;

(5) Advising the Finance and Administration Cabinet regarding procurement of Kentucky-made secondary wood products by state agencies, including the procurement of these products by the Department of Parks as part of any proposed state parks renovation projects;

(6) Soliciting, borrowing, accepting, receiving, investing, and expending funds from any public or private source, including, but not limited to, general fund appropriations of the Commonwealth of Kentucky, grants or contributions of money, property, labor, or other things of value to be used to carry out the corporation's operations, functions, and responsibilities;

(7) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities;

(8) Establishing benchmarks for the purpose of evaluating workforce training and technology transfer programs applicable to the secondary wood products industry;

(9) Employing consultants and other persons as may be required in the judgment of the board to be essential to the board's operations, functions, and responsibilities; and

(10) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its statutory powers, duties, and responsibilities.

Section 20. KRS 177.977 is amended to read as follows:

(1) The Transportation Cabinet shall publish a directory, including supporting maps and other documents, designating the official coal road system in coal impact and coal producing counties which shall include all public highways, roads, bridges, and streets over which quantities of coal sufficient to significantly affect the condition and state of repair of such highways, roads, bridges, and streets have been transported in the immediately preceding year. The cabinet shall further publish the total county mileage of the official coal road system and the total ton-miles within each coal impact and coal producing county for said preceding year.

(2) Every person, producer or processor shipping or transporting coal over the public highways, roads, bridges, and streets, shall file with the Transportation Cabinet information at intervals as the cabinet shall designate by administrative regulation promulgated pursuant to KRS Chapter 13A, for the purpose of identifying those highways, roads, and streets

comprising the coal road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton-miles within each coal impact and coal producing county. A copy of the information furnished to the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet pursuant to the provisions of KRS 350.0285 and a copy of the information furnished to the Department ***for Natural Resources***~~[of Mines and Minerals]~~ pursuant to the provisions of KRS 351.070 and 352.420 shall be submitted to the Transportation Cabinet to satisfy the reporting requirements of this subsection and the transportation plan shall be annually updated to reflect in route changes.

Section 21. KRS 224.10-020 is amended to read as follows:

(1) There is established within the cabinet a Department for Natural Resources, a Department for Environmental Protection,~~[and]~~ a Department ***of Labor, and a Department of Public Protection***~~[for Surface Mining Reclamation and Enforcement]~~. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.

(2) There is established within the Department for Natural Resources a Division of Forestry, a Division of Conservation, a Division of Energy, an Office of Technical and Administrative Support, a Division of Mine Reclamation and Enforcement, a Division of Mine Permits, a Division of Abandoned Mine Lands, a Division of Oil and Gas Conservation, and an Office of Mine Safety and Licensing. There shall be established within the Office of Mine Safety and Licensing a Division of Safety Inspection and Licensing, a Division of Explosives and Blasting, a Division of Investigation, and a Division of Safety Analysis, Training, and Certification. Each division shall be headed by a director and each office shall be headed by an executive director. Directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050 and, as appropriate, Section 64 of this Act. Both directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(3) (a) There is established within the Department of Labor, an Office of Occupational Safety and Health, an Office of Labor-Management Relations and Mediation, an Office of Workplace Standards, and a Division of Administrative Services. Each division shall be headed by a director and each office shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. The directors and the executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(b) The following agencies are attached to the Department of Labor for administrative purposes only:

1. Kentucky Labor Management Advisory Council;

2. Kentucky Employees' Insurance Association;

3. State Labor Relations Board;

4. Workers' Compensation Funding Commission;

5. Workers' Compensation Advisory Council;

6. Occupational Safety and Health Standards Board;

7. Prevailing Wage Review Board;

8. Apprenticeship and Training Council;

9. Employers' Mutual Insurance Authority;

10. Workers' Compensation Nominating Commission; and

11. Office of Workers' Claims.

(4) (a) There is established within the Department of Public Protection, a Division of Administrative Services, an Office of Financial Institutions, an Office of Insurance, an Office of Housing, Buildings, and Construction, an Office of Charitable Gaming, and an Office of Alcoholic Beverage Control. Each division shall be headed by a division director and each office shall be headed by an executive director. Division directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. Division directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(b) The following agencies are attached to the Department of Public Protection for administrative purposes only:

1. Kentucky Public Service Commission;

2. Crime Victims Compensation Board;

3. Board of Claims;

4. Board of Tax Appeals;

5. Kentucky Athletic Commission; and

6. Kentucky Horse Racing Authority.

Section 22. KRS 224.10-040 is amended to read as follows:

(1) The secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create[~~ such~~] positions***, to retain positions in effect prior to his or her appointment as secretary,*** and to employ the necessary personnel in such positions to enable the secretary to perform the functions of the cabinet. The secretary shall designate a person to act as deputy for him ***or her*** in the exercise of his duties in his absence.

(2) All appointments to positions not in the classified service shall be made pursuant to KRS 12.050[~~ and such appointees shall be major assistants to the secretary and shall assist in the development of policy~~].

(3) The secretary may designate a deputy to sign any or all final orders of the cabinet whether the orders are the result of hearing or agreement.

Section 23. KRS 224.10-050 is amended to read as follows:

The secretary shall establish the internal organization of the cabinet not established ***by statute or by executive order of the Governor, as ratified by the General Assembly,***[~~ in KRS 224.10-040~~] and shall divide the cabinet into such offices or divisions as the secretary may deem necessary to perform the functions, powers and duties of the cabinet, subject to the provisions of KRS Chapter 12. ***The secretary may retain or revise any offices or divisions in place prior to his or her appointment as secretary if retaining or revising the offices or divisions is not contrary to or in conflict with the organization of the cabinet established by statute or by executive order of the Governor, as ratified by the General Assembly.***

Section 24. KRS 224.60-115 is amended to read as follows:

As used in KRS 224.60-120 to 224.60-150, unless the context otherwise requires:

(1) "Bodily injury and property damage" means only those actual economic losses to an individual or the individual's property resulting from bodily injuries and damages to property caused by a release into the environment from a petroleum storage tank. In this context, property damage includes damage to natural resources;

(2) "Cabinet" means the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet;

(3) "Claim" means any demand in writing for a certain sum;

(4) "Corrective action" means those actions necessary to protect human health and the environment in the event of a release from a petroleum storage tank. Corrective action includes initial responses taken pursuant to KRS 224.60-135, remedial actions to clean up contaminated groundwater, surface waters, or soil, actions to address residual effects after initial corrective action is taken, and actions taken to restore or replace potable water supplies. Corrective action also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred;

(5) "Dealer" means a person required to be licensed as a gasoline or special fuels dealer as defined in KRS 138.210(2);

(6) ***"Division" means the Division of Waste Management;***

(7) "Facility" means, with respect to any owner or operator, all petroleum storage tanks which are owned or operated by an owner or operator and are located on a single parcel of property or on any contiguous or adjacent property;

(8)[~~(7)~~] "Federal regulations" means regulations for underground petroleum storage tanks promulgated by the United States Environmental Protection Agency pursuant to Subtitle I of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act;

(9)[~~(8)~~] "Free product" means a regulated substance that is present as a non-aqueous phase liquid;

(10)[~~(9)~~] "Fund" means the petroleum storage tank environmental assurance fund and its subaccounts, the financial responsibility account and the petroleum storage tank account established pursuant to KRS 224.60-140;

(11)[~~(10)~~] "Gasoline" means gasoline as defined in KRS 138.210(4);

(12)[~~(11)~~] "Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, that is typically used in the operation of a motor engine, jet fuel, and any petroleum or petroleum-based substance typically used in the operation of a motor vehicle, including used motor vehicle lubricants and oils;

(13)[~~(12)~~] "Occurrence" means a release, or releases, of an accidental nature, requiring corrective action, from a petroleum storage tank or tanks located at the same facility, due to continuous or repeated exposure to conditions. An additional release or releases at the same facility in which the area requiring remedial action is separate from a previous remediation area or areas shall be considered a separate occurrence;

[~~(13) "Office" means the Office of Petroleum Storage Tank Environmental Assurance Fund;~~]

(14) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, the state, a municipality, commission, or political subdivision of the state. The term includes a consortium, a joint venture, the United States government, or a commercial entity;

(15) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute. The term includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating oil, special fuels, lubricants, and used oil;

(16) "Petroleum storage tank" means an underground storage tank, as defined by KRS 224.60-100, which contains petroleum or petroleum products but, for the purpose of participation or eligibility for the fund, shall only include tanks containing motor fuels and shall not include petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel or tanks used exclusively for storage of fuel used for the purposes of powering locomotives or tanks owned by a federal agency or the United States government;

(17) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(18) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(19) "Received" means the same as defined in KRS 138.210(5);

(20) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law;

(21) "Special fuels" means special fuels as defined in KRS 138.210(4); and

(22) "Third party" means a person other than the owner or operator of a facility, or the agents or employees of the owner or operator, who sustains bodily injury or property damage as a result of a release from that facility.

Section 25. KRS 224.60-120 is amended to read as follows:

(1) Each petroleum storage tank owner or operator shall establish and maintain evidence of financial responsibility, as provided for in this section, for taking corrective action and for compensating third parties for bodily injury and property damage.

   (a) For petroleum storage tank owners or operators of eleven (11) or more tanks, the level of financial responsibility to be established and maintained shall be twelve thousand five hundred dollars ($12,500) per occurrence for taking corrective action and twelve thousand five hundred dollars ($12,500) per occurrence for compensating third parties for bodily injury and property damage.

   (b) For petroleum storage tank owners or operators of six (6) to ten (10) tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be two thousand five hundred dollars ($2,500) per occurrence for taking corrective action and two thousand five hundred dollars ($2,500) per occurrence for compensating third parties for bodily injury and property damage.

   (c) For petroleum storage tank owners or operators of five (5) or less tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be five hundred dollars ($500) per occurrence for taking corrective action and for compensating third parties for bodily injury and property damage.

(2) Evidence of financial responsibility may be established by any combination of the following:

   (a) Commercial or private insurance, including risk retention groups;

   (b) Qualification as a self-insurer;

   (c) A guarantee, surety bond, or letter of credit; or

   (d) Any other reasonable and economically practicable means in a form acceptable to the ***division***[~~office~~].

(3) To qualify as a self-insurer, the petroleum storage tank owner or operator shall demonstrate a net worth in excess of the amounts specified in subsection (1) of this section. "Net worth" shall mean the monetary value of assets that remain after deducting liabilities. "Assets" shall mean all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(4) The total liability of any guarantor under KRS 224.60-105 to 224.60-160 is limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the petroleum storage tank owner or operator pursuant to this section. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to a petroleum storage tank owner or operator, including, but not limited to, the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. "Guarantor" shall mean any person, other than the petroleum storage tank owner or operator, who provides evidence of financial responsibility for a petroleum storage tank owner or operator pursuant to this section.

(5) It is the intent of the General Assembly that the fund established pursuant to KRS 224.60-140, combined with the financial responsibility required by this section, may be used by petroleum storage tank owners or operators to demonstrate their compliance with any financial responsibility requirements promulgated under federal regulations.

(6) The ***Department for Environmental Protection, Division of Waste Management,***[~~office~~] shall promulgate administrative regulations to implement this section. In promulgating administrative regulations, the ***division***[~~office~~] shall not restrain or limit the use of any of the means of establishing financial responsibility specified in this section. The administrative regulations may allow a twenty-five percent (25%) reduction in the level of financial responsibility set in subsection (1) of

this section for the timely completion of corrective action.

Section 26. KRS 224.60-130 is amended to read as follows:

(1)[~~There is created within the Public Protection and Regulation Cabinet, Office of the Secretary, the Office of Petroleum Storage Tank Environmental Assurance Fund.~~

~~(2)~~] The ***Environmental and Public Protection Cabinet, Department for Environmental Protection, Division of Waste Management,***[~~Office of Petroleum Storage Tank Environmental Assurance Fund~~] shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the ***division***[~~office~~] may distinguish between types, classes, and ages of petroleum storage tanks. The ***division***[~~office~~] may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the ***division***[~~office~~] for reimbursement from the fund for the performance of corrective action. At a minimum, the ***division***[~~office~~] shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the ***division***[~~office~~] shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The ***division***[~~office~~] may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the ***division***[~~office~~] on or before January 15, 2008. To insure cost effectiveness, the ***division***[~~office~~] shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the ***division***[~~office~~] may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent (\$0.004) from the one and four-tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the ***division***[~~office~~];

(d) Establish a small operator assistance account within the fund which may be used by the ***division***[~~office~~] to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2013. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent (\$0.01) from the one and four-tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2004, the ***division***[~~office~~] shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The ***division***[~~office~~] shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the ***division***[~~office~~] shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the ***division***[~~office~~] regarding the payment of claims from the fund in accordance with KRS ***224.10-410 to 224.10-470***[~~Chapter 13B~~];

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the ***division***[~~office~~], for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account. The ***division***[~~office~~] shall, by administrative regulation, set the entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator. The expenditures shall be paid from the appropriate account;

(j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the ***division***[~~office~~] may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;

(k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

(l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The ***division***[~~office~~] may collect soil or water samples or require storage tank owners or operators to split samples with the ***division***[~~office~~] for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the ***division***[~~office~~] to collect or split samples shall make the facility ineligible for fund participation;

(m) Have ***inspectors***[~~assurance fund auditors~~] on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the ***division***[~~office~~] schedule an ***inspector***[~~assurance fund auditor~~] to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an ***inspector***[~~auditor~~] fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the ***division***[~~assurance fund~~] no later than ten (10) days prior to the proposed date that an ***inspector***[~~auditor~~] is not available on the proposed date, in which event a representative of the ***division***[~~assurance fund~~] shall contact the operator and schedule a new date. If no ***inspector***[~~auditor~~] is present at the rescheduled date, the removal may then proceed without penalty; and

(n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter.

The funding and operations of the small operator assistance account and the small operator's tank removal account shall end on July 15, 2008.

(2)[~~(3)~~] The ***division***[~~office~~] may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(3)[~~(4)~~] The ***division***[~~office~~] may sue and be sued in its own name.

(4)[~~(5)~~] The ***division***[~~office~~] may transfer funds from the petroleum storage tank account to the small operator tank removal account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The ***division***[~~office~~] may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection ***(1)***[~~(2)~~](c) of this section.

Section 27. KRS 224.60-140 is amended to read as follows:

(1) There is hereby created the petroleum storage tank environmental assurance fund. The fund shall consist of a financial responsibility account and a petroleum storage tank account. Each account shall be maintained as a separate and distinct interest-bearing account. Interest credited to an account shall be retained in that account. All of the following amounts

shall be deposited in the fund:

(a) Four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the financial responsibility account;

(b) One cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the petroleum storage tank account;

(c) Money appropriated by the General Assembly for deposit in each account;

(d) Any money recovered by the fund pursuant to this section shall be deposited in the appropriate account; and

(e) Any money collected in the form of penalties levied pursuant to KRS 224.60-155 shall be deposited to the appropriate account.

(2) Money in the fund, financial responsibility account and the petroleum storage tank account shall be used by the ***division***[~~office~~] for the following purposes:

(a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action required by the cabinet to be undertaken as the result of a release into the environment from a petroleum storage tank. Reimbursement shall be limited to only those costs, expenses, and other obligations incurred to comply with corrective action requirements established in law or administrative regulation by the cabinet. Additional costs related to compliance with a local program operating under KRS 224.60-105(4) shall be neither reimbursable by the fund nor imposed on the owner or operator. Reimbursement shall not include the costs related to the removal, or actions incidental to the removal, of a tank system except as authorized under KRS 224.60-130***(1)***[~~(2)~~](j);

(b) For payment of or reimbursement for third-party claims for bodily injury and property damage, related to a facility eligible for participation in the financial responsibility account, which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;

(c) To pay the reasonable, prorated costs incurred by the ***division***[~~office~~] in administering each account; and

(d) The cost to operate the small operators' assistance account pursuant to KRS 224.60-130***(1)***[~~(2)~~](d), the small operators' tank removal account pursuant to KRS 224.60-130***(1)***[~~(2)~~](j), to perform or contract for the performance of financial audits conducted under KRS 224.60-130***(1)***[~~(2)~~](k), and to employ sufficient ***inspectors***[~~assurance fund auditors~~] to carry out the provisions of KRS 224.60-130 and to set forth their duties. These costs shall be prorated to each account.

(3) The use of the fund shall not exceed one million dollars ($1,000,000) per occurrence for corrective action and one million dollars ($1,000,000) per occurrence for compensating third parties for bodily injury and property damage.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the ***division***[~~office~~] for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the ***division***[~~office~~].

(7) The ***division***[~~office~~] or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time. The ***division***[~~office~~] shall by phone or facsimile transmission immediately notify the claim applicant and its consultant, if applicable, when the claim is determined to be deficient. The notification shall provide sufficient information to allow the applicant and its consultant, if applicable, to begin to correct the deficiency. The ***division***[~~office~~] shall then notify the applicant and its consultant, if applicable, by certified mail of the deficiency. The notice shall indicate how many days remain in the ninety (90) day review period from the time of mailing. The review period shall be tolled pending submittal of information responding to the deficiency, but not to exceed thirty (30) days. When the ***division***[~~office~~] receives information that corrects the deficiency, or at the end of the thirty (30) day period, the ***division***[~~office~~] shall complete the review of the claim within the time remaining in the ninety (90) day review period. Nothing in this section shall be construed as preventing the fund from making partial reimbursement as appropriate.

(8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the ***division***[~~office~~] from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the ***division's***[~~office's~~] cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the petroleum storage

tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsections (8) and (19) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the ***division***[~~office~~] pursuant to this section shall be deposited in the appropriate account.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13) (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The appropriate account shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14) (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.

(17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks used exclusively for storage of fuel used for the purposes of powering locomotives.

(18) (a) Any person filing a claim for reimbursement from the ***division***[~~office~~] shall, prior to filing the claim for reimbursement, ensure full payment of the claims of all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor or materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement.

(b) A vendor or subcontractor may waive, in writing, his right to receive full payment before the person files the claim for reimbursement. Any vendor or subcontractor who waives, in writing, his right to full payment shall also waive, in writing, his right to take legal recourse against the ***division***[~~office~~] and the underground storage tank facility owner or operator for nonpayment from a prime contractor for work performed or materials supplied to the prime contractor during corrective action at an underground storage tank facility. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall acknowledge in the written waiver that his, his heirs', successors', and assigns' sole recourse for the nonpayment of work performed or materials supplied to a prime contractor during corrective action at an underground storage tank facility is to proceed against the prime contractor for whom he performed the work or supplied materials. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall release and discharge any liens filed as a result of work performed or materials provided at the underground storage tank facility. Subcontractor and vendor waivers must be made on standard forms furnished by the ***division***[~~office~~]. Their signatures must be notarized.

(c) Unless the provisions of paragraph (b) of this subsection apply, any person filing a claim for reimbursement from the ***division***[~~office~~] shall certify, by affidavit, on standard forms furnished by the ***division***[~~office~~], that all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor and materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement, have been paid in full as of the date of submission of the claim for reimbursement. A single affidavit may be made for each claim for reimbursement, provided, however, that the representations made in the affidavit shall be applied to each vendor or subcontractor individually, and, where false, shall be treated, as to each vendor or subcontractor, as a separate violation for the purpose of applying any criminal statute.

(d) Any person with responsibility for administering the ***division***[~~office~~] who believes, or has information, that an affidavit submitted pursuant to this subsection contains false or misleading information, or any person with responsibility for administering the ***division***[~~office~~] who believes or has information that an application for financial assistance or a claim for reimbursement contains false or misleading information, shall provide that information to the Commonwealth's attorney whose jurisdiction includes the county where the majority of the subject underground storage tank facility is located. That person may additionally provide the information to any other interested prosecutor with jurisdiction to prosecute crimes pertaining to an application for financial assistance or the claim for reimbursement.

(19) Any person who knowingly makes a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be responsible for and shall not be reimbursed for any amounts incurred based upon the false statement, representation, or certification. Any costs incurred and paid from the fund which are based on a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be recovered by the fund administrators from the person who asserted the false statement, representation, or certification.

Section 28. KRS 303.100 is amended to read as follows:

A burial association desiring to do business in this state shall file with the ***executive director of the Office of Insurance***[~~commissioner~~] a power of attorney as is required of insurance companies, designating the ***executive director***[~~commissioner~~] as the proper person upon whom process may be served.

Section 29. KRS 304.2-010 is amended to read as follows:

There is continued ***within the Environmental and Public Protection Cabinet, Department of Public Protection, an office***[~~a department of state government~~] known as the ***Office***[~~Department~~] of Insurance.

Section 30. KRS 304.2-020 is amended to read as follows:

(1) The ***executive director***[~~insurance commissioner~~] is the head of the ***Office***[~~Department~~] of Insurance.

(2) The ***executive director shall be appointed by the secretary of the Environmental and Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050***[~~commissioner shall be appointed by the Governor with the consent of the Senate, for a term not to exceed four (4) years on the basis of his merit and fitness to perform the duties of the office as provided in KRS 12.040. If the Senate is not in session when a term expires or a vacancy occurs, the Governor shall make the appointment to take effect at once, subject to the approval of the Senate when convened~~].

(3) The following divisions are established within the Office of Insurance and shall be headed by directors appointed by the secretary of the Environmental and Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050:

(a) Property and Casualty Division;

(b) Division of Life Insurance;

(c) Division of Financial Standards and Examination;

(d) Division of State Risk and Insurance Services;

(e) Division of Agent Licensing;

(f) Division of Insurance Fraud Investigation;

(g) Division of Consumer Protection and Education;

(h) Division of Health Insurance Policy and Managed Care; and

(i) Division of Kentucky Access.

Section 31. KRS 304.2-100 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] shall personally supervise the operations of the ***office***[~~department~~].

(2) The ***executive director***[~~commissioner~~] shall examine and inquire into violations of this code, shall enforce the provisions of this code with impartiality and shall execute the duties imposed upon him by this code.

(3) The ***executive director***[~~commissioner~~] shall have the powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code.

(4) The ***executive director***[~~commissioner~~] may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper upon reasonable and probable cause to determine whether any person has violated any provisions of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.

(5) The ***executive director***[~~commissioner~~] may establish and maintain such branch offices in this state as may be reasonably required for the efficient administration of this code.

(6) The ***executive director***[~~commissioner~~] shall have such additional powers and duties as may be provided by other laws of this state.

Section 32. KRS 336.010 is amended to read as follows:

As used in ***this chapter***[~~KRS 336.010 to 336.160~~], unless the context requires otherwise:

(1) "Commissioner" means commissioner of the Department of ***Labor***[~~Workplace Standards~~] under the direction and supervision of the secretary of the ***Environmental and Public Protection***[~~Labor~~] Cabinet;[~~ and~~]

(2) "Department" means Department of ***Labor; and***

(3) "Secretary" means the secretary of the Environmental and Public Protection Cabinet[~~Workplace Standards~~].

Section 33. KRS 336.015 is amended to read as follows:

(1) The ***commissioner***[~~secretary~~] of ***the Department of*** Labor shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the[~~ commissioner and Department of~~] Labor ***Cabinet***.

(2) The ***Department of*** Labor[~~ Cabinet~~] shall consist of the ***Office of Occupational Safety and Health, the Office of Labor Management Relations and Mediation, the Office of Workplace Standards, and the Division of Administrative Services. Each of the offices shall be headed by an executive director and each division shall be headed by a division director. Executive directors and division directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050 and, as appropriate, KRS 342.228***[~~Offices of the Secretary, General Counsel, Administrative Services, Information Technology, Labor Management Relations and Mediation; the Kentucky Workers' Compensation Funding Commission; the Workers' Compensation Board; the Occupational Safety and Health Review Commission; and the Departments of Workplace Standards, and Workers' Claims. The commissioner of the Department of Workplace Standards and the Department of Workers' Claims within the Labor Cabinet shall be under the direction and control of the secretary of the Labor Cabinet~~].

(3) The following agencies are attached to the department for administrative purposes only:

(a) Kentucky Labor Management Advisory Council;

(b) Kentucky Employees' Insurance Association;

(c) State Labor Relations Board;

(d) Workers' Compensation Funding Commission;

(e) Workers' Compensation Advisory Council;

(f) Occupational Safety and Health Standards Board;

(g) Prevailing Wage Review Board;

(h) Apprenticeship and Training Council;

(i) Employers' Mutual Insurance Authority;

(j) Workers' Compensation Nominating Commission; and

(k) Office of Workers' Claims.

Section 34. KRS 336.020 is amended to read as follows:

(1) The ***Office***[~~Department~~] of Workplace Standards shall be headed by ***an executive director***[~~a commissioner~~] and shall be divided for administrative purposes into the ***Division***[~~Divisions ~~]of Employment Standards, Apprenticeship and Training; ***and the Division of*** Workers' Compensation Funds[~~; Occupational Safety and Health Compliance; and Education and Training for Occupational Safety and Health~~].

(2) The ***Office***[~~Department~~] of Workers' Claims shall be administered by ***an executive director***[~~a commissioner~~] and shall be divided for administrative purposes into the Divisions of Claims Processing and Appeals, Information and Research, Security and Compliance, ***and Ombudsman and Special Services***[~~Administrative Law Judges, and Insurance~~].

(3) The Office of Occupational Safety and Health shall be administered by an executive director and shall be divided for administrative purposes into the Division of Compliance and the Division of Education and Training.

Section 35. KRS 336.030 is amended to read as follows:

The commissioner, with the approval of the ***secretary of the Environmental and Public Protection Cabinet and the*** Governor, shall appoint necessary deputies, attorneys, statisticians, inspectors and other employees and fix their salaries according to law. These employees shall receive their actual necessary expenses.

Section 36. KRS 336.164 is amended to read as follows:

(1) The council shall function as an advisory agent of state government and provide leadership and assistance for labor and management in this state, and shall serve to effect improved labor-management relations within the state, and to thereby attract and encourage new and existing industry in this state.

(2) The council shall not infringe upon or assume the responsibilities, duties or functions of the ***Department of*** Labor[~~ Cabinet~~] or Cabinet for Economic Development. The council may make recommendations to the Governor and the Legislature on matters relating to labor-management problems in this state and any other matter it deems necessary.

(3) Meetings of the council may be held at any location in this state; however the principal office of the council will be located in Frankfort, Kentucky.

(4) The ***commissioner of the Department***[~~secretary~~] of labor shall supply necessary staff and supplies to the council as well as funds for reimbursing each member for reasonable and necessary expenses incurred as a result of attending council meetings, and he ***or she*** shall act as the executive secretary of the council. The executive director of the Office of Labor-Management Relations and Mediation shall be responsible for the coordination of such staff and supplies.

Section 37. KRS 338.015 is amended to read as follows:

As used in this chapter:

(1) "Employer" shall mean any entity for whom a person is employed except those employers excluded in KRS 338.021.

(2) "Employee" shall mean any person employed except those employees excluded in KRS 338.021.

(3) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(4) "Occupational safety and health hazard" means any practice or condition in a place of employment which may be deemed detrimental to the safety and health of employees.

(5) "Occupational injury or illness" means any abnormal condition or disorder of an employee caused by exposure to factors associated with his employment.

(6) "Board" means the Kentucky Occupational Safety and Health Standards Board established under this chapter.

(7) "***Executive director***[~~Commissioner~~]" means the ***executive director***[~~commissioner~~] of the ***Office of Occupational Safety and Health***[~~Kentucky Department of Workplace Standards~~] under the direction and supervision of the ***commissioner of the Department of Labor***[~~secretary of the Labor Cabinet~~].

(8) "Review commission" means the Kentucky Occupational Safety and Health Review Commission established under this chapter.

(9) The term "national consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(10) The term "established federal standard" means any operative occupational safety and health standard established by any agency of the United States government.

(11) "Office" means the Office of Occupational Safety and Health.

(12) "Commissioner" means the commissioner of the Department of Labor.

Section 38. KRS 338.071 is amended to read as follows:

(1) There is hereby established the Kentucky Occupational Safety and Health Review Commission consisting of three (3) members appointed by the Governor on the basis of their experience and competence in the fields of occupational safety and health. The members selected shall be qualified to represent the interest of employers, employees, and the occupational safety and health profession with a minimum of five (5) years experience in their respective fields.

(2) Members of the review commission shall serve terms of four (4) years and until their successors are appointed.

(3) The review commission shall hold monthly meetings and additional meetings as deemed necessary. A majority of the review commission constitutes a quorum for the transaction of business. Special meetings of the review commission may be called upon reasonable notice by the commissioner or by any two (2) members of the commission.

(4) The review commission shall hear and rule on appeals from citations, notifications, and variances issued under the provisions of this chapter and adopt and promulgate rules and regulations with respect to the procedural aspect of its hearings.

(5) The review commission shall have the authority to employ a secretary, hearing officers, and other employees as may become necessary.

(6) The chairman of the commission and each of the other two (2) members shall be paid a salary fixed under KRS 64.640.

(7) The secretary of the commission shall be paid a salary to be fixed by the commission, with the approval of the Governor. The commission shall fix the compensation of all its other employees.

(8) The commissioners and the secretary and employees of the commission are entitled to all necessary expenses incurred in traveling on business of the commission.

(9) The commission shall be attached to the Environmental and Public Protection Cabinet, Office of the Secretary for administrative purposes only.

Section 39. KRS 338.161 is amended to read as follows:

(1) The ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] shall develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. Each employer shall make, keep and preserve, and make available to the ***executive director***[~~commissioner~~] and the Secretary of the United States Department of Labor or the Secretary of the United States Department of Health and Human Resources, such records

regarding his activities relating to this chapter as may be prescribed by regulation.

(2) The ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protection and obligations under this chapter.

Section 40. KRS 338.181 is amended to read as follows:

The ***Office of Occupational Safety and Health***[~~Kentucky Department of Workplace Standards~~] is empowered to administer the provisions of this chapter to employers, employees, and places of employment under the jurisdiction of the United States government pursuant to any agreement between the Commonwealth and the United States government. Pursuant to such agreement, the ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] is empowered to make employer reports and data available to the United States government.

Section 41. KRS 339.210 is amended to read as follows:

As used in KRS 339.220 to 339.450 "gainful occupation" does not include employment in farm work or in domestic service in a private home, nor occasional employment by a householder in connection with the household and not in connection with the householder's business or occupation, such as grass cutting or carrying ashes or similar casual domestic tasks, nor the delivery of newspapers on regularly scheduled routes, nor to employment as an actor or performer in motion pictures or theatrical productions, or in radio or television productions, nor to employment of minors by their own parents or persons standing in the place of a parent in occupations other than manufacturing, mining, or those found by the ***executive director of the Office of Workplace Standards***[~~commissioner of labor~~] to be particularly hazardous.

Section 42. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "***Office***[~~Department~~]" means the ***Office***[~~Department~~] of Workers' Claims in the ***Department of*** Labor[~~ Cabinet~~].

(9) "***Executive director***[~~Commissioner~~]" means the ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;

3. Loss of both hands at or above the wrist;

4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;

5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;

6. Incurable insanity or imbecility; or

7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the ***Office***[~~Kentucky Department~~] of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on

insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the ***executive director***[~~commissioner~~] using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The ***executive director***[~~commissioner~~] shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the ***executive director***[~~commissioner~~]. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The ***executive director***[~~commissioner~~] shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the ***office***[~~department~~] and from the records of the Department for Employment Services, Cabinet for Workforce Development. The ***executive director***[~~commissioner~~] shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The ***executive director***[~~commissioner~~] shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the ***office***[~~department~~] and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the ***executive director***[~~commissioner~~], which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the ***executive director***[~~commissioner~~] pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the

factor set forth in the table that appears at KRS 342.730(1)(b).

Section 43. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter, an owner or owners of a business, including qualified partners of a partnership owning a business, or qualified members of a limited liability company, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee if the owner, owners, qualified partners, or qualified members of a limited liability company elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of the owners, partners, or members of a limited liability company to provide coverage for their employees, nonqualified partners, or nonqualified members, if any, required under this chapter.

(2) When an owner, owners, qualified partners, or qualified members of a limited liability company have elected to be included as employees, this inclusion shall be accomplished by the issuance of an appropriate endorsement to a workers' compensation insurance policy.

(3) For the purpose of this section, "qualified partner" or "qualified member or members" means, respectively, a partner who has entered into a meaningful partnership agreement or a member who has entered into meaningful articles of organization or a meaningful operating agreement of a limited liability company, which document shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership or limited liability company and that the partner or member has made some contribution to the partnership or limited liability company which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership or limited liability company.

(4) For the purposes of this section, "nonqualified partner" or "nonqualified member" means, respectively, a person who has entered into a partnership agreement, or articles of organization or operating agreement of a limited liability company, which document shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership or limited liability company; that the person will not participate in the decision-making of the partnership or limited liability company and will not participate in the profits and losses of the business engaged in by the partnership or limited liability company.

(5) Every partnership filing a partnership agreement and every limited liability company filing articles of organization or an operating agreement for the purpose of exemption pursuant to the provisions of KRS 342.340 shall, on or before April 15 of each year, file with the ***executive director***[~~commissioner~~] the employer identification number assigned to the partnership or limited liability company by the Internal Revenue Service. On or before April 15 of each year, each partnership and each limited liability company having a partnership agreement, operating agreement, or articles of organization on file with the ***executive director***[~~commissioner~~] shall file a copy of the tax return of the partnership or limited liability company with the ***executive director***[~~commissioner~~]. Failure to comply with the provisions of this subsection shall be prima facie evidence that the partnership agreement or limited liability company articles of organization filed with the ***executive director***[~~commissioner~~] is composed, respectively, of "nonqualified partners" or "nonqualified members", respectively, as defined in this section, and the ***executive director***[~~commissioner~~] shall promptly notify interested government agencies of the failure of the filed partnership agreement or limited liability company articles of organization or operating agreement to indicate compliance with KRS 342.340. With particular reference to employers engaged in coal mining, the ***executive director***[~~commissioner~~] shall promptly report the failure to comply with the provisions of this subsection to the ***Environmental and Public Protection Cabinet, Department of Natural Resources, Office of Mine Safety and Licensing,***[~~Department of Mines and Minerals~~] so that appropriate action may be undertaken pursuant to KRS 351.175.

(6) For purposes of this section, a "limited liability company" means an entity defined in KRS 275.015 and organized under the provisions of KRS Chapter 275.

Section 44. KRS 349.010 is amended to read as follows:

As used in this chapter:

(1) "Abandoned" when used in connection with a well or hole means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of coalbed methane or the injection or disposal of fluid therein;

(2) "Coal interest holder" means every record coal owner, record coal lessee, mine licensee as defined in KRS 352.010(1)(r) and mine permittee as defined in KRS 350.010(21) whose coalbed is penetrated, or proposed to be penetrated, by a coalbed methane well;

(3) "Coalbed" or "coal seam" means a seam of coal, whether workable or unworkable;

(4) "Coalbed methane" means gas produced from a reservoir found in a coalbed, a mined-out area, or gob;

(5) "Coalbed methane well" means any well drilled, deepened, converted, or reopened for the purpose of capturing coalbed methane for sale or use. Any well initially used for a coal mining-related purpose, such as a vent well, but which is subsequently used for the purpose of recovering coalbed methane for sale or use, shall then be deemed to be a coalbed methane well and shall comply with the provisions of this chapter at the time that the well is converted or used for the purpose of recovering coalbed methane for sale or use;

(6) "Commissioner" means the commissioner of the Department ***for***[~~of~~] Natural Resources;

(7) "Correlative rights" means the reasonable opportunity of each person entitled to recover, without waste, the coalbed methane in and under his or her tract or tracts, or the equivalent thereof;

(8) "Department" means the Department ***for***[~~of~~] Natural Resources;

(9) "Director" means the director of ***the Division of*** Oil and Gas Conservation as established in KRS 353.530;

(10) "Drilling unit" means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable coalbed methane in the area. Where the department has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;

(11) ***"Division" means the Division of Mine Permits in the Department for Natural Resources***[~~"DSMRE" means the Department for Surface Mining Reclamation and Enforcement as established in KRS 350.035~~];

(12) "Field rules" means rules established by orders of the review board relating to the drilling, completion, production of, and specifications for coalbed methane wells in a particular geographic area as defined by an order;

(13) "Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coalbed;

(14) "Gob well" means a well drilled or a vent hole converted to a well pursuant to this chapter which produces or is capable of producing coalbed methane for sale or use, from a de-stressed zone associated with any full seam extraction of coal that extends above or below a mined-out coalbed;

(15) "Horizontally drill" or "horizontal drilling" means the intentional act of drilling a borehole, shaft, or hole, which deviates from vertical for the purpose of penetrating a coal seam to produce coalbed methane;

(16) "Mine licensee" means the mine licensee as defined in KRS 352.010(1)(r);

(17) "Mine permittee" means the permittee as defined in KRS 350.010(21);

(18) "Nonparticipating working interest owner" means a coalbed methane owner or lessee of a tract included in a drilling unit who elects to share in the operation of the coalbed methane well on a carried basis by agreeing to have his or her proportionate share of the costs allocable to his or her interest charged against his or her share of production from the coalbed methane well;

(19) "Nonparticipating operator" means a nonparticipating working interest owner who is also the operator of the coalbed methane well;

(20) "Operator" means any owner of the right to drill, develop, operate, and produce coalbed methane from a pool and to appropriate the coalbed methane produced therefrom, either for himself or herself, or for himself, herself, and others; in the event there is no coalbed methane lease in existence with respect to the tract in question, the owner of the coalbed methane rights therein shall be considered as an "operator" to the extent of seven-eighths (7/8) of the coalbed methane in that portion of the pool underlying the tract owned by that owner, and as a "royalty owner" as to one-eighth (1/8) interest in that coalbed methane;

(21) "Other interested coalbed methane parties" means all working interest owners other than the operator, all royalty and overriding royalty interest owners or holders, and any other party who owns or holds a right or interest in a drilling unit, coalbed methane well site for which a drilling permit has been issued or is pending, and all associated equipment, facilities, infrastructure, and improvements;

(22) "Participating working interest owner" means a coalbed methane owner or lessee who elects to bear a share of the risks and costs of drilling, completing, equipping, operating, plugging, and abandoning a coalbed methane well equal to the proportion which the acreage in the drilling unit he or she owns or holds under lease bears to the total acreage of the drilling unit;

(23) "Participating operator" means a participating working interest owner who is also the operator of the coalbed methane well;

(24) "Person" means any person, corporation, association, partnership, limited liability company, receiver, governmental agency subject to this chapter, trustee, so-called common law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(25) "Plat" means a map, drawing, or print showing the location of a well;

(26) "Review board" means the Coalbed Methane Well Review Board;

(27) "Royalty owner" means any owner of coalbed methane in place, or coalbed methane rights, to the extent that the owner is not an operator as defined in subsection (20) of this section;

(28) "Stimulate" means any action taken to increase the flow of coalbed methane, or the inherent productivity of a coalbed methane well, including but not limited to fracturing, shooting, acidizing, or waterflooding, but excluding cleaning out, bailing, or workover operations;

(29) "Surface owner" means the person in whose name the surface of the land is assessed for purposes of taxes imposed according to the property valuation administrator;

(30) "Unit" means any tract or tracts which the department has determined are underlaid by a pool or pools of coalbed methane and are not drilling units as defined in subsection (10) of this section;

(31) "Unitization" means the act of combining separately owned tracts or separate interests therein into a unit constituting all or some portion of a coalbed that produces or is capable of producing coalbed methane and the joint operation of that unit;

(32) "Unit operator" means the party designated in a pooling order to develop a unit by the drilling of one (1) or more coalbed methane wells;

(33) "Vent hole" means a borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened, which is used for the purpose of releasing or venting coalbed methane to the atmosphere and not for the purpose of capturing or producing coalbed methane for sale or use;

(34) "Venting" means the act of releasing coalbed methane to the atmosphere;

(35) "Well" means any borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened for the purpose of capturing or producing coalbed methane for sale or use; and

(36) "Workable coalbed" means:

(a) Any coalbed twenty-four (24) inches or more in thickness;

(b) Any coalbed actually being operated commercially;

(c) Any coalbed that the department decides can be operated commercially, and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

(d) Any coalbed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through or into it.

Section 45. KRS 349.015 is amended to read as follows:

(1) Before a permit may be issued by the department to drill a coalbed methane well on any tract known to be underlaid with coal-bearing strata, the well operator shall provide to the department a plat prepared by a licensed, professional land surveyor and a licensed, professional engineer showing:

(a) The county in which the coalbed methane well drill site is located;

(b) The name of the surface owner of the drill site tract, the acreage of the drill site tract, the names of the surface owners of adjacent tracts, the names of all coal interest holders from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located, and the names of all oil and gas owners from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located;

(c) The proposed or actual location of the coalbed methane well determined by bearing and distance, relative to two (2) permanent points or monuments that appear on the applicable United States Geological Survey seven and one-half (7-1/2) minute topographic quadrangle map;

(d) The location of any other existing or permitted coalbed methane well or any oil or gas well located within one thousand five hundred (1,500) feet of the well;

(e) The outside boundary of the mineral tract from which the coalbed methane is to be produced if within seven hundred fifty (750) feet of the well; and

(f) The number to be given the coalbed methane well, the earliest date for commencement of drilling, the earliest date for commencement of any stimulation of the coalbed methane well, and if horizontal drilling of a coalbed methane well is proposed, the vertical and horizontal alignment and extent of the coalbed methane well.

(2) If the location of any coalbed methane well proposed to be drilled, deepened, or reopened is known to be underlaid by a coal bearing stratum which is not within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the ***division***~~[DSMRE]~~, simultaneously with the filing of an application for a permit, the applicant shall send, by registered or certified mail, a copy of the required plat to the record coal owner or owners and record coal lessee or lessees from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located.

(3) If the coal bearing stratum is within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the ***division***~~[DSMRE]~~, a copy of the required plat shall also be sent by the applicant, by registered or certified mail, to each mine licensee and mine permittee operating any stratum as designated on the current license issued by the department and at the address stated thereon.

(4) A copy of the required plat shall also be sent, by registered or certified mail, simultaneously with the filing of an application for a permit, to the surface owner of the drill site tract and surface owners of adjoining tracts.

(5) If the address of any record owner is unknown to the applicant and cannot upon diligent inquiry within the county be ascertained, or if there are more than five (5) record owners, then the applicant shall file with the department an affidavit that either condition exists, and the department may prescribe some different method of notifying the record owner in lieu of sending a copy of the plat and notice of application as required by this section.

(6) The plat shall be filed and become a permanent record, subject to inspection at any time by any interested person. Any

executive officer, process agent, or chief engineer of the mine licensee or mine permittee may be considered a mine licensee or mine permittee for the purposes of mailing the required copy of the plat.

(7) If a coalbed methane well is proposed to be drilled, deepened, converted, or reopened by an applicant who is not the owner or lessee of all of the oil and gas interests, the applicant shall, simultaneously with the filing of the application for a permit, send by registered or certified mail a copy of the required plat to the record oil and gas lessees of, to the record oil and gas lessors of, and to the operator of all oil and gas wells producing from, all formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the well is proposed to be located.

(8) The operator shall promptly upon completion of either a vertically drilled coalbed methane well located ten (10) feet or more from the location reflected on the plat required with the permit application or a horizontally drilled coalbed methane well file with the department an as-drilled plat prepared by a licensed professional land surveyor and a licensed professional engineer reflecting the actual coalbed methane well location. If the operator has completed a horizontally drilled coalbed methane well, the as-drilled plat shall show its alignment and extent. The plat shall become a permanent record subject to inspection at any time by any interested persons.

(9) Each plat, or exhibit attached thereto, shall have the following information on a form supplied by the department:

(a) Notice of the application for a coalbed methane well and the address where a copy of the application may be obtained;

(b) A statement that the recipient has twenty (20) days within which to file an objection to the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed; and

(c) A statement that the applicant has met and conferred with, or offered to meet and confer with, each coal interest holder concerning the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed.

Section 46. KRS 349.020 is amended to read as follows:

(1) If the drilling of a coalbed methane well could adversely affect the present or future use or operation of a workable coalbed, any coal interest holder may object to a proposed coalbed methane well, the well's location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed. Any coal interest holder, within twenty (20) days of receipt of the plat by him or her and by the department, may file specific objections in writing with the department. The filed objections shall provide sufficient detail for the applicant to identify the nature and substance of the objection. The department shall notify the applicant of the objections and fix a time and place for a hearing before the review board to be conducted in accordance with KRS Chapter 13B and this chapter.

(2) If any coal interest holder, notified pursuant to KRS 349.015, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him or her and by the department. The person also shall request that a pooling order be entered pursuant to KRS 349.080(1).

(3) If the record oil and gas lessor, lessee, or well operator notified pursuant to KRS 349.015, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him. The person shall request that a pooling order be entered pursuant to KRS 349.080(1).

(4) If no objections are filed within the twenty (20) day period, the department shall immediately issue a drilling permit to the well operator approving the location of the well and authorizing the well operator to proceed to drill at that location, provided all other preconditions to issuance of a permit, as contained in this chapter, have been met.

(5) Upon receipt of an application to drill a coalbed methane well, the department shall provide a copy of the required plat and permit application to ***the division***[~~DSMRE~~]. Within fifteen (15) days of receipt by ***the division,***[~~DSMRE~~] notification shall be sent to the department by ***the division***[~~DSMRE~~] as to whether the proposed coalbed methane well will be located within the boundaries of any coal mine for which a permit has been issued or has been applied for pursuant to KRS Chapter 350. If the proposed coalbed methane well is to penetrate a workable coalbed that is within the area of an existing permit for an underground mine issued by ***the division***[~~DSMRE~~], or the proposed permitted area of a pending application or permit modification for an underground mine before ***the division***[~~DSMRE~~], the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to stimulate, complete, or horizontally drill the coalbed methane well in the workable coalbed that is within the area of an existing permit for an underground mine issued by ***the division***[~~DSMRE~~] or within the proposed permitted area of a pending application or permit modification for an underground mine before ***the division***[~~DSMRE~~]. If the proposed coalbed methane well is to be located within a surface area permitted, or proposed in a pending application or permit modification to be issued by ***the division***[~~DSMRE~~], the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to drill the coalbed methane well. In the absence of the written authorization of the mine permittee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well if:

(a) Authorization has been denied by the mine permittee; and

(b) The proposed location and area to be disturbed by the proposed coalbed methane well has achieved either a partial bond release status or the bond for the area has been forfeited.

Section 47. KRS 349.040 is amended to read as follows:

(1) It is unlawful for any person to drill, commence, operate, deepen, convert, or stimulate any coalbed methane well, to conduct any horizontal drilling of a coalbed methane well or to convert any existing oil or natural gas well to a coalbed methane well, without first securing from the department a permit pursuant to this chapter. Before any well, borehole, or facility initially used for a coal mining related purpose, such as a vent hole, is converted for the purpose of recovering coalbed methane for sale or use, the operator shall obtain a permit and comply with the provisions of this chapter prior to the time that the well, borehole, or facility is converted or used for the purpose of recovering coalbed methane for sale or use. It is unlawful for any person to drill, deepen, convert, or reopen a coalbed methane well for the production of oil or natural gas or for the injection of water, gas, or other fluids into any oil or natural gas producing formation until the person has obtained a permit from the department for a petroleum or natural gas well pursuant to KRS 353.570. However, no additional permit fee shall be required if the original permit for the coalbed methane well has not expired.

(2) Every permit application filed under this section shall be verified and shall contain the following:

(a) A statement that the applicant claims to have a valid real property interest in, or the current legal right to produce coalbed methane from a person claiming a valid real property interest in, the coalbed methane. The statement shall identify with specificity the nature of the real property interest and the document or instrument evidencing that interest or right, including recording information of any recorded document or instrument;

(b) The names and addresses of the coalbed methane well operator and every person or entity whom the applicant must notify under any section of this chapter;

(c) The name and address of each coal interest holder of any workable coalbed which is to be penetrated by a proposed coalbed methane well or within seven hundred fifty (750) horizontal feet or fifty (50) vertical feet of any portion of the proposed coalbed methane well;

(d) The name and addresses of each record oil and gas lessee of, the record oil and gas lessor of, and the operator of all oil and gas formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the coalbed methane well is proposed to be located;

(e) The coalbed methane well name or such other identification as the department may require;

(f) The approximate depth to which the coalbed methane well is to be drilled, deepened, or converted, the coal seams including the depth and thickness of each seam that will be completed for production, and any other coal seams which will be penetrated by the coalbed methane well;

(g) A description of any means to be used to stimulate any of the workable coalbeds penetrated by the coalbed methane well;

(h) If the proposed coalbed methane well will require casing or tubing, the entire casing program for the coalbed methane well, including the size of each string of pipe, the starting point and depth to which each string is to be set, and the extent to which each string is to be cemented;

(i) If the proposed operation is to convert an existing petroleum or natural gas well, as defined in KRS 353.010(13), or to convert a vertical borehole or facility initially used for a coal mining related purpose, such as a vent hole, to a coalbed methane well, all information required by this section, all formations from which production is anticipated, and any plans to plug any portion of the well;

(j) Except for a vent hole proposed to be converted to a coalbed methane well, if the proposed coalbed methane well will be completed in some but not all coal seams for production, a plan and design for the coalbed methane well which will protect all workable coalbeds which will be penetrated by the coalbed methane well;

(k) If the proposed operations will include horizontal drilling of a coalbed methane well, a description of the operations, including both the vertical and horizontal alignment and extent of the coalbed methane well from the surface to total depth; and

(l) Other information as the department may require consistent with this chapter.

(3) Each application for a coalbed methane well permit shall be accompanied by the following:

(a) A permit application fee of three hundred dollars ($300);

(b) A bond in an amount prescribed in KRS 349.120;

(c) A certificate that the applicant's notice requirements of KRS 349.015 have been satisfied. Certification may be by affidavit of personal service, or the return receipt card, or other postal receipt, for certified mailing;

(d) If the proposed coalbed methane well will be located within one-half (1/2) of a mile, measuring horizontally, of a water supply well being used for residential or domestic purposes, the applicant will submit the groundwater protection plan required under KRS 224.70-110 and applicable administrative regulations promulgated pursuant thereto for review by the department, or demonstrate to the department that a plan is not required; and

(e) Proof that the applicant has public liability insurance coverage in an amount not less than five hundred thousand dollars ($500,000) in aggregate and three hundred thousand dollars ($300,000) per occurrence for damages to persons and property caused by the applicant's operations or proof that the applicant has satisfied self-insurance requirements as provided by administrative regulations which shall be promulgated by the department.

(4) Prior to the department's issuance of a permit to drill a coalbed methane well, a copy of the written authorization from the mine licensee shall be filed with the application under the following circumstances:

(a) If the proposed coalbed methane well is to penetrate a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before the ***division***~~[DSMRE]~~ and if the applicant plans to stimulate, complete, or horizontally drill the coalbed methane well in a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before ***the division***~~[DSMRE]~~;

(b) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit, or the proposed permitted area of a permit pending before ***the division***~~[DSMRE]~~ for which no bond release has been obtained; or

(c) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit by ***the division***~~[DSMRE]~~ for which a partial bond release has been obtained.

If a coalbed methane well permit is issued for a well site located within the boundaries of any coal mine for which a permit has been issued or is pending pursuant to KRS Chapter 350, the permit shall include a provision specifically stating that the permitted coalbed methane well location is in an area for which a coal mine permit has been issued or is pending pursuant to KRS Chapter 350 and is subject to the mine-through rights set forth in KRS 349.030(1).

(5) If a partial bond release for the surface area on which the proposed coalbed methane well is located has been obtained from ***the division***~~[DSMRE]~~ and the applicant is denied written authorization from the mine licensee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well. When requesting an appeal, the applicant shall submit a verified statement including the following:

(a) The applicant has met and conferred with or offered to meet and confer with the mine licensee concerning the authorization;

(b) The mine licensee has refused to provide written authorization to disturb the permitted area;

(c) The physical area to be disturbed by the proposed well location and the use of area, including ingress and egress thereto, qualifies as a commercial or industrial postmining land use entitling the mine licensee to a complete bond release for the area to be disturbed by the coalbed methane well operator in accordance with KRS Chapter 350; and

(d) The applicant has agreed to pay the reasonable and actual costs of the permit revision required by ***the division***~~[DSMRE]~~ to affect the incremental bond release for the proposed area to be disturbed by the coalbed methane well operator, not to exceed five thousand dollars ($5,000).

(6) Prior to the issuance of a permit to drill a coalbed methane well, the applicant shall grant assignable subsidence waivers to any mine licensee if requested in an objection filed pursuant to KRS 349.060 and, if required, to allow present or future mining with planned subsidence under KRS Chapter 350. However, this subsection and any subsidence waivers shall in no way waive, affect, or impair the ability of the applicant or the applicant's successors or assigns to pursue any remedies for damages to persons, or to improved or tangible property, suffered or incurred as a result of any subsidence caused by the mine licensee or the mine licensee's successors or assigns. The mine licensee, its successors or assigns, shall be liable for any and all damages to persons or to improved or tangible property proximately caused by the mine licensee.

(7) If the mine licensee is mining in a coal seam that is not being produced by the coalbed methane well operator and has not exercised his or her mine-through rights, as set forth in KRS 349.030(1) or (2), in any coal mine before removing any coal or other material or driving any entry or passageway within five hundred (500) horizontal feet of the vertical segment of a coalbed methane well or within fifty (50) vertical feet of the horizontal segment of a coalbed methane well, the mine licensee shall forward simultaneously to the well operator and to the department, by certified mail, return receipt requested, or by registered mail, a copy of the maps and plans required by law to be filed and kept up to date. Maps or plans shall show the mine workings and projected mine workings within five hundred (500) horizontal feet of the coalbed methane well. However, the issuance of any coalbed methane well permit shall not preclude or prevent coal mining outside two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of a coalbed methane well or outside of the workable coalbed in which the horizontal segment of a coalbed methane well is located, unless specified by the department for reasons of mine or well safety. The mine licensee shall not mine within fifty (50) feet of the vertical segment of a coalbed methane well without the written authorization of the coalbed methane well operator. A mine licensee may file a request with the department to mine closer than two hundred (200) feet of the vertical segment of the coalbed methane well. The mine licensee shall forward simultaneously to the well operator and the department, by certified mail, return receipt requested, or by registered mail, a request to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, which shall be accompanied by the following:

(a) A copy of the maps and plans required by law to be filed and kept up to date, showing on the copy of the map or plan its mine plan workings and projected mine workings beneath the tract of land and within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well; and

(b) A statement that the applicant has met and conferred with, or offered to meet and confer with, the well operator concerning the mine licensee's plan to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well.

The well operator may, within twenty (20) days of receipt of the documents listed in paragraphs (a) and (b) of this subsection, file specific objections in writing with the department. When objections are filed, the department shall provide a copy of the objections to the mine licensee and fix a time and place for an informal hearing. The hearing shall be held not more than ten (10) days from the end of the twenty (20) day period. At the hearing, the mine licensee and the well operator, in person or by representative, shall consider the objections and seek agreement on the character and the extent of operations to be conducted within less than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well. If no agreement can be reached, the department, after administrative hearing conducted in accordance with KRS Chapter 13B, shall make a decision defining what coal, if any, is necessary to be left for the safe protection, use, and operation of the well. The department's decision shall be subject to appeal by either party as provided in this chapter. The department shall keep a complete record of all hearings. The mine licensee shall, every six (6) months, while mining within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, file up-to-date maps and plans required by this section, or file new maps and plans complete to date.

(8) The department may deny the issuance of a permit if it determines that the applicant has a documented pattern or practice of substantial violations of the provisions of this chapter and has failed to abate or seek review of the violations. If the department finds that a substantial violation has occurred with respect to existing operations and that the operator has failed to abate or seek review of the violation in the time prescribed, the department may suspend the permit. After a suspension, the operator shall forthwith cease all work being conducted under the permit until the department reinstates the permit. The department shall make a written finding of its determination and may enforce the determination in Circuit Court pursuant to KRS 349.145.

Section 48. KRS 349.055 is amended to read as follows:

(1) The Coalbed Methane Well Review Board is hereby established. The review board shall be composed of five (5) members and shall have the powers and duties specified under this chapter.

(2) The review board shall consist of the commissioner of the Department ***for***~~[of]~~ Natural Resources or his or her designee within the department, the ***director of the Division of Mine Reclamation and Enforcement***~~[commissioner of the Department of Mines and Minerals]~~, and the director of the Division of Oil and Gas ***Conservation*** within the Department ***for Natural Resources***~~[of Mines and Minerals]~~, a representative of the oil and gas industry, and a representative of the coal industry. The representatives from the oil and gas industry and the coal industry shall be appointed by the Governor for terms of four (4) years subject to confirmation by the Senate.

(3) The review board shall be, for administrative purposes only, attached to the ***Environmental and Public Protection Cabinet, Department for Natural Resources***~~[Division of Oil and Gas within the Department of Mines and Minerals]~~.

Section 49. KRS 350.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. Excavation for the purpose of obtaining coal includes extraction of coal from refuse piles. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two hundred fifty (250) tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or

removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;

(9) "Person" means any individual, partnership, corporation, association, society, joint stock company, firm, company, or other business organization and shall also include any agency, unit, or instrumentality of federal, state, or local government including any publicly-owned utility or publicly-owned corporation of federal, state, or local government;

(10) "Cabinet" means the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet;

(11) "Secretary" means the secretary of the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(16) "Certification" by a qualified registered professional engineer, as required by this chapter and administrative regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and administrative regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land.

(18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010(20).

(19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

(20) "Permit applicant" or "applicant" means a person applying for a permit.

(21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.

(22) "Unanticipated event or condition" as used in KRS 350.085(7) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(23) "Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under KRS 350.560(1) or (2).

(24) "Coal combustion by-products" means fly ash, bottom ash, scrubber sludge, and waste from fluidized bed combustion, produced by the combustion of coal. Coal combustion by-products do not include boiler slag, or residues of refuse derived fuels, such as municipal solid waste, tires, and solvents.

Section 50. KRS 350.028 is amended to read as follows:

The ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet shall have and exercise the following authority and powers:

(1) To adopt administrative regulations after a hearing pertaining to surface coal mining operations including strip mining and the surface effects of underground mining to accomplish the purposes of this chapter;

(2) To conduct investigations and hearings under provisions of this chapter or regulations adopted pursuant thereto;

(3) To issue, after an opportunity for a hearing, suspension orders or show cause orders requiring an operator, permittee, or person to adopt remedial measures that are necessary to comply with this chapter and administrative regulations adopted pursuant thereto. Failure to attend a hearing shall be excused for good cause shown;

(4) To issue, after an opportunity for a hearing, a final order imposing civil penalties for violations of this chapter or directing the ***Department for Natural Resources***[~~Kentucky Bureau of Surface Mining Reclamation and Enforcement~~] to revoke a permit, when the requirements set forth by the notice of noncompliance, order of cessation, or an order of the cabinet requiring remedial measures have not been complied with according to the terms therein. When the secretary or his authorized representatives determines that a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed, and if the secretary or his authorized representatives also find that the violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions or that the violations are willfully caused by the permittee, the secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked and shall provide an opportunity for a hearing. Failure to attend a hearing shall be excused for good cause shown; and

(5) To adopt administrative regulations to allow the state to administer and enforce the initial and permanent regulatory programs of Public Law 95-87, "Surface Mining Control and Reclamation Act of 1977." Administrative regulations shall be no more stringent than required by that law. Nothing in this chapter shall be construed as superseding, amending, modifying, or repealing any of the acts listed in Section 702(a) of Public Law 95-87, or any administrative regulation promulgated thereunder.

Section 51. KRS 350.0301 is amended to read as follows:

(1) Any person who considers himself aggrieved by any determination made by the cabinet under this chapter may file, in accordance with administrative regulations promulgated by the cabinet under the provisions of this chapter, a petition alleging that the determination is contrary to law or fact and is injurious to him, the grounds and reasons therefor, and demand a hearing. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of the notice unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the determination complained of, or could reasonably have had notice. However, the petitioner shall have the opportunity to contest the validity of an underlying notice of noncompliance in a timely-filed demand for hearing to contest the validity of a cessation order issued for a failure to abate the violation contained in the notice of noncompliance.

(2) All hearings, other than conferences, under this chapter shall be held before a hearing officer, duly qualified to practice law in the Commonwealth of Kentucky, who may be a full-time employee of the cabinet, serve by contract, or be paid on a per diem basis in the discretion of the cabinet. After the conclusion of the hearing, the hearing officer shall within thirty (30) days make to the secretary a report and recommended order which shall contain a finding of fact and a conclusion of law. If the secretary finds upon written request of the hearing officer that additional time is needed, the secretary may grant an extension. The hearing officer shall serve a copy of his report and recommended order upon all parties of record and their attorney of record to the proceeding, and they shall be granted the right to file exceptions thereto within fourteen (14) days of service. Any party may submit a written response to exceptions within twenty-one (21) days of service of the report and recommended order. Exceptions and responses not timely filed shall be noted and made a part of the record but shall not be considered by the secretary in making a final order. The secretary shall consider the report, exceptions, and recommended order and decide the case. The decision shall be served by mail upon all parties and their attorney of record and shall be a final order of the cabinet.

(3) Any party to a hearing under this subsection may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of these actions. The record of the hearing shall be open to

public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original.

(4) All hearings conducted pursuant to this chapter shall be open to the public.

(5) The cabinet shall promulgate administrative regulations, pursuant to the provisions set forth in this chapter, establishing formal and informal hearing procedures by which any hearing shall, upon the written request of the operator, permittee, or person, be held in the county or regional office where the surface coal mining operation is located, before an impartial hearing officer who is independent of any prosecutorial functions of the cabinet. The administrative regulations shall provide for the conduct of hearings and investigation of any matter relating to the regulation of surface coal mining and reclamation operations; provide for the assessment and payment of civil penalties, including the placement of proposed civil penalty assessments into an escrow account prior to a formal hearing on the amount of the assessment; and provide for a waiver of the placement of the proposed civil penalties into escrow for those individuals who demonstrate with substantial evidence an inability to pay the proposed civil penalties into escrow. The procedures developed pursuant to this subsection shall provide that the hearings be held in the most expeditious manner possible within the time constraints established under this chapter. No person who presided at a prior hearing shall either preside at a subsequent hearing or participate in any further decision or subsequent administrative appeal in the same matter.

(6) The cabinet may promulgate administrative regulations pursuant to the provisions set forth in this chapter establishing procedures for the holding of administrative conferences needed to implement the provisions of this chapter.

(7) The secretary may designate a deputy to sign any or all final orders of the cabinet, whether the orders are the result of hearing or agreement.

Section 52. KRS 350.035 is amended to read as follows:

(1) There is established within the cabinet a Department for ***Natural Resources***[~~Surface Mining Reclamation and Enforcement~~] which shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The secretary may divide the department into a ***Division of Mine Reclamation and Enforcement,*** Division of ***Mine*** Permits, ***Division of Abandoned Mine Lands,*** Division of Standards and Specifications, Division of Operations and Enforcement, an Office of Special Investigation, and any other offices or divisions as the secretary may deem necessary to perform the functions, powers, and duties of the department, subject to the provisions of KRS Chapter 12.

(2) The secretary shall have the power to appoint not more than fifteen (15) special investigations officers who shall be peace officers except for purposes of KRS 527.020. Such peace officers shall be responsible for enforcement of the provisions of this chapter relating to criminal offenses.

Section 53. KRS 350.260 is amended to read as follows:

There is hereby created a Small Coal Operators Advisory Council which shall report directly to the secretary of the Governor's Executive Cabinet. The council shall advise on matters affecting coal production and utilization including coal market development, transportation, and storage problems. The council shall have the function of coordinating and improving the working relationships between those state agencies administering programs which regulate, serve, or aid small coal mine operators. The council shall consist of fifteen (15) members. Ten (10) of those members shall be appointed by the Governor. Seven (7) of the ten (10) members shall be full-time operators producing three hundred thousand (300,000) or fewer tons of coal per year. Three (3) of the ten (10) appointees shall be with backgrounds in one (1) or more of the following areas: transportation, marketing, mining education, and mining engineering. The secretary of the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet, the commissioners of the ***Department of*** Agriculture and ***the Department for Natural Resources***[~~Mines and Minerals Departments~~], and the special assistant to the Governor for coal and energy policy shall be ex officio members. Each individual appointment shall be for a four (4) year term which shall begin on July 15, 1984. Members may serve successive terms if reappointed. Vacancies shall be filled in a manner consistent with the provisions for initial appointments. At the first meeting held on or after July 1 of each year, a chairman shall be elected by and from the membership. The council shall meet at least quarterly during each year and may meet more often at the call of the chairman. The council shall be attached to the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet for administrative purposes. Council members shall be eligible for reimbursement by the cabinet for actual expenses directly related to serving on the council.

Section 54. KRS 350.425 is amended to read as follows:

The permittee, operator, or other person shall design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to subsection (f) of Section 515 of Public Law 95-87, "Surface Mining Control and Reclamation Act of 1977," all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments. The ***Environmental and Public Protection Cabinet***[~~Kentucky Department of Surface Mining~~] through this chapter shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream, which structures or obstructions are permitted under this chapter.

Section 55. KRS 350.430 is amended to read as follows:

The permittee or operator shall:

(1) Provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident living within one-half (1/2) mile of the proposed blasting site and by providing daily notice to resident/occupiers in the areas prior to any blasting;

(2) Maintain for a period of at least three (3) years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

(3) Limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface water outside the permit area;

(4) Require that all blasting operations be conducted by trained and competent persons as certified by the Department ***for Natural Resources***~~[of Mines and Minerals]~~; and

(5) Provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half (1/2) mile of any portion of the permitted area the applicant or permittee shall conduct a preblasting survey of the structures and submit the survey to the cabinet and a copy to the resident or owner making the request. The area of the survey shall be decided by the cabinet and shall include such provisions as the cabinet shall promulgate.~~[The cabinet and the Department of Mines and Minerals are authorized to enter into agreements whereby the cabinet or the Department of Mines and Minerals administers part or all of this section.]~~

(6) Penalties for violations of this section are those set forth in KRS 350.990.

Section 56. KRS 351.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Approved" means that a device, apparatus, equipment, or machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department ***for Natural Resources***~~[of Mines and Minerals]~~;

(b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(c) "Board" means the Mining Board created in KRS 351.105;

(d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(e) "Commission" means the Mine Safety Review Commission created by KRS 351.1041;

(f) "Commissioner" means commissioner of the Department ***for Natural Resources***~~[of Mines and Minerals]~~;

(g) "Department" means the Department ***for Natural Resources***~~[of Mines and Minerals]~~;

(h) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(i) "Excavations and workings" means the excavated portions of a mine;

(j) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(k) "Gassy mine." All mines shall be classified as gassy or gaseous;

(l) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(m) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(n) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units, shall be considered a separate mine;

(o) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;

(p) "Open-pit mine" shall include open excavations and open-cut workings, including but not limited to auger operations and highwall mining systems for the extraction of coal;

(q) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(r) "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;

(s) "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;

(t) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(u) "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(v) "Slope" means an inclined opening used for the same purpose as a shaft;

(w) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;[~~ and~~]

(x) "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein***;***

(y) "Office" means the Office of Mine Safety and Licensing; and

(z) "Executive director" means the executive director of the Office of Mine Safety and Licensing.

(2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.

(3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 57. KRS 351.020 is amended to read as follows:

(1) The Department ***for Natural Resources***[~~of Mines and Minerals~~] shall be headed by the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~].

(2) The department shall administer all laws of the Commonwealth relating to mines.

Section 58. KRS 351.060 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] of the ***Office of Mine Safety and Licensing***[~~Department of Mines and Minerals~~] shall be a citizen of Kentucky and shall be thoroughly familiar with all methods of safety pertaining to the operation of mines.

(2) The ***executive director***[~~commissioner~~] shall have a practical knowledge of:

(a) The different systems of working and ventilating coal mines;

(b) The nature, chemistry, and properties of noxious, poisonous, and explosive gases, the dangers due to these gases, and the prevention of these dangers;

(c) The dangers incident to blasting and the prevention of these dangers;

(d) The methods for the management and extinguishment of mine fires;

(e) The methods for rescue and relief work in mine disasters;

(f) The application of electricity in mining operations;

(g) The application of mechanical loading in mining operations;

(h) The equipment and explosives manufactured for use in coal mines;

(i) The methods used in locating oil and gas wells when drilled through any coal seam;

(j) The proper manner of drilling and plugging oil and gas wells;

(k) Mining engineering; and

(l) The methods for the prevention of explosions in mines due to gas or dust.

(3) The ***executive director***[~~commissioner~~] shall be capable of efficiently reporting on any proposed development in mining operations or the possibility of operating any coal or clay seam.

(4) The ***executive director***[~~commissioner~~] shall hold a mine inspector's certificate.

Section 59. KRS 351.070 is amended to read as follows:

(1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department. ***There is created within the Department for Natural Resources an Office of Mine Safety and Licensing.***

(2) ***The secretary***[~~He~~] shall appoint ***an executive director to the Office of Mine Safety and Licensing in accordance with subsection (2) of Section 21 of this Act***[~~a deputy commissioner of the Department of Mines and Minerals~~] and prescribe his powers and duties.

(3) ***The commissioner***[~~He~~] may, whenever necessary, divide the coal fields of the state into as many inspection districts as

necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.

(4) ***The commissioner***[~~He~~] may, whenever he ***or she*** deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one (1) district to another.

(5) ***The commissioner***[~~He~~] shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.

(6) ***The commissioner***[~~He~~] shall collect statistics relating to coal mining in the state and make an annual report of the statistics.

(7) ***The commissioner***[~~He~~] shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.

(8) ***The commissioner***[~~He~~] shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.

(9) ***The commissioner***[~~He~~] shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.

(10) ***The commissioner***[~~He~~] shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.

(11) ***The commissioner***[~~He~~] may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.

(12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.

(13) The ***secretary of the Environmental and Public Protection Cabinet***[~~commissioner~~] shall have the power and authority to promulgate, amend, or rescind any administrative regulations he ***or she*** deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the commissioner only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.

(14) The commissioner shall ascertain the cause or causes of any coal mining fatality and, within sixty (60) days of completion of the investigation, shall report his findings and recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. The recommendations may include, without being limited to, the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality.

Section 60. KRS 351.242 is amended to read as follows:

(1) There is hereby created in the department ***a mine safety analysis program***[~~the Division of Mine Safety Analysis~~].

(2) Persons employed in the ***department***[~~division~~] as underground or surface mine safety analysts shall satisfy the applicable requirements established in KRS 351.090.

(3) The primary responsibility of the safety analyst is to prevent mine accidents and fatalities by observing and evaluating the work habits of persons involved in the direct production of coal and to contact, advise, and assist these persons in correcting their unsafe or potentially hazardous actions.

(4) The safety analyst shall have the same powers as a mine inspector of the department, but these powers shall be considered secondary to the primary responsibilities provided in subsection (3) of this section. Each time a safety analyst enters a mine to perform his primary responsibility, he shall confer with the foreman as to the conditions of the mine and the work practices of the employees.

(5) The safety analyst shall keep mine management, representatives of the employees, and the commissioner informed about all hazardous conditions and all matters which may improve the safety of mines.

(6) The ***office***[~~division~~] shall assist the ***department***[~~Division of Miner Training, Education, and Certification~~] in assessing the effectiveness of miner training programs.

(7) The commissioner shall at his ***or her*** discretion assign safety analysts to all mines in the state taking into consideration such factors as the history of accidents at the mine, experience of the work force, physical condition of the mine, and size of the mine.

(8) The commissioner may coordinate the assignment of safety analysts with the appropriate federal authorities to minimize duplication of accident prevention efforts.

(9) The commissioner shall report annually to the General Assembly and to the Governor on the effectiveness of the safety analysts in improving mine safety.

Section 61. KRS 351.310 is amended to read as follows:

As used in KRS 351.315 to 351.375 unless the context clearly indicates otherwise:

(1) "Explosives" means any chemical compound or other substance or mechanical system intended for the purpose of producing an explosion, or that contains oxidizing and combustible units or other ingredients in such proportions or quantities that ignition by detonation may produce an explosion, capable of causing injury to persons or damage to property;

(2) "Blasting operation" means the use of explosives in the surface blasting of stone, rock, ore or any other natural formation, or in any construction or demolition work, but shall not include its use in agricultural operations;

(3) "Blaster" means a person licensed to fire or detonate explosives in blasting operations;

(4) "Charge" means a quantity of explosive or equivalent that is to be detonated within a period of five (5) seconds;

(5) "Subcharge" means a quantity of explosive or equivalent that is to be detonated within a period of less than eight (8) milliseconds;

(6) "Detonation time" means the time at which the detonation is initiated;

(7) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(8) "Commissioner" means the commissioner of ***the Department for Natural Resources***[~~mines and minerals~~].

Section 62. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(e) "Board" means the Mining Board created in KRS 351.105;

(f) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(g) "Commissioner" means commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(h) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(j) "Excavations and workings" means the excavated portions of a mine;

(k) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(l) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(m) "Gassy mine." All underground mines shall be classified as gassy or gaseous;

(n) "High voltage" means any voltage of one thousand (1,000) volts or more;

(o) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;

(p) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(q) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(r) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(s) "Low voltage" means up to and including six hundred sixty (660) volts;

(t) "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;

(u) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;

(v) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;

(w) "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;

(x) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(y) "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;

(z) "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;

(aa) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(ab) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(ac) "Slope" means an inclined opening used for the same purpose as a shaft;

(ad) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(ae) "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(af) "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;

(ag) "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;

(ah) "Working place" means the area of a coal mine inby the last open crosscut;

(ai) "Working section" means all areas of a coal mine from the loading point to and including the working faces; and

(aj) "Workmanlike manner" means consistent with established practices and methods utilized in the coal industry.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010 and shall not apply to electrical facilities owned, operated, or otherwise controlled by a retail electric supplier or generation and transmission cooperative as defined in KRS 278.010 or organized under KRS Chapter 279 for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established easement rights on private property and that are covered by the National Electric Safety Code (NESC) or other applicable safety codes, or other authorities having jurisdiction and shall not apply to installations under the exclusive control of utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established rights on private property.

Section 63. KRS 353.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Barrel" or "barrel of oil" means forty-two (42) standard United States liquid measure gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit.

(2) "Casing" means a string or strings of pipe commonly placed in wells drilled for natural gas and petroleum.

(3) "Cement" means hydraulic cement properly mixed with water only.

(4) "Coal operator" means any person who proposes to or does operate a coal mine.

(5) "Cubic feet of gas" means the volume of gas contained in one (1) cubic foot of space at a standard pressure base of fourteen and seventy-three hundredths (14.73) pounds per square inch and a temperature base of sixty (60) degrees Fahrenheit.

(6) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~].

(7) "Gas" means natural gas.

(8) "Gas well" means any well which:

(a) Produces natural gas not associated or blended with crude petroleum oil any time during production; or

(b) Produces more than ten thousand (10,000) cubic feet of natural gas to each barrel of crude petroleum oil from the same producing horizon.

(9) "Oil" means petroleum.

(10) "Oil well" means any well which produces one (1) barrel or more of oil to each ten thousand (10,000) cubic feet of natural gas.

(11) "Plat" means a map, drawing, or print showing the location of a well.

(12) "Unit" means any tract or tracts which the department has determined is underlaid by a pool or pools of oil and associated gas, and is not a "drilling unit" as defined in KRS 353.510(19).

(13) "Well" means a borehole drilled or proposed to be drilled for the purpose of producing natural gas or petroleum, or one through which natural gas or petroleum is being produced.

(14) "Well operator" means any person who proposes to or does locate, drill, operate, or abandon any well.

(15) "Workable bed" means:

(a) A coal bed actually being operated commercially,

(b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years, or

(c) Any coal bed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through it.

Section 64. KRS 353.510 is amended to read as follows:

As used in KRS 353.500 to 353.720, unless the context otherwise requires:

(1) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~] as defined in KRS 351.010;

(2) "Commissioner" means the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~] as defined in KRS 351.010;

(3) "Director" means the director of ***the Division of*** Oil and Gas Conservation as provided in KRS 353.530;

(4) "Commission" means the Kentucky Oil and Gas Conservation Commission as provided in KRS 353.565;

(5) "Person" means any natural person, corporation, association, partnership, receiver, governmental agency subject to KRS 353.500 to 353.720, trustee, so-called common-law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(6) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof;

(7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

(8) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined in subsection (7) of this section as oil;

(9) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each productive zone of a general structure which is completely separated from any other zone in the structure, or which for the purpose of KRS 353.500 to 353.720 may be so declared by the department, is covered by the word "pool" as used herein;

(10) "Field" means the general area which is underlaid or appears to be underlaid by at least one (1) pool; and "field" includes the underground reservoir containing oil or gas or both. The words "field" and "pool" mean the same thing when only one (1) underground reservoir is involved; however, "field," unlike "pool," may relate to two (2) or more pools;

(11) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts;

(12) "Abandoned," when used in connection with a well or hole, means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of oil or gas or for the injection or disposal of fluid therein;

(13) "Workable bed" means:

(a) A coal bed actually being operated commercially;

(b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

(c) A coal bed which, from outcrop indications or other definite evidence, proves to the satisfaction of the commissioner to be workable, and which, when operated, will require protection if wells are drilled through it;

(14) "Well" means a borehole drilled, shaft driven, or hole dug or such proposed or otherwise used for the purpose of producing natural gas or petroleum, or one through which natural gas or petroleum is being produced, or for the purpose of injecting any water, gas, or other fluid therein or one into which any water, gas, or other fluid is being injected;

(15) "Shallow well" means any well drilled and completed at a depth less than four thousand (4,000) feet except, in the case of

any well drilled and completed east of longitude line 84 degrees 30'; shallow well means any well drilled and completed at a depth less than four thousand (4,000) feet or above the base of the lowest member of the Devonian Brown Shale, whichever is the deeper in depth;

(16) "Deep well" means any well drilled and completed below the depth herein provided for a shallow well;

(17) "Operator" means any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as "operator" to the extent of seven-eighths (7/8) of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one-eighth (1/8) interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the right to develop, operate, and produce the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool;

(18) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that such owner is not an operator as defined in subsection (17) of this section;

(19) "Drilling unit" generally means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable oil or gas in such area. Where the regulatory authority has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, such area shall be a drilling unit;

(20) "Underground source of drinking water" means those subsurface waters identified as such in regulations promulgated by the department which shall be consistent with the definition of underground source of drinking water in regulations promulgated by the Environmental Protection Agency pursuant to the Safe Drinking Water Act, 42 U.S.C. secs. 300(f) et seq.;

(21) "Underground injection" means the subsurface emplacement of fluids by well injection but does not include the underground injection of natural gas for purposes of storage;

(22) "Endangerment of underground sources of drinking water" means underground injection which may result in the presence in underground water, which supplies or can reasonably be expected to supply any public water system, of any contaminant and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons;

(23) "Class II well" means wells which inject fluids:

(a) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

(b) For enhanced recovery of oil or natural gas; and

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure;

(24) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

Section 65. KRS 353.530 is amended to read as follows:

(1) The Governor shall appoint, as director of ***the Division of*** Oil and Gas Conservation in the Department ***for Natural Resources***~~[of Mines and Minerals]~~, a person who has, at the time of his appointment, at least five (5) years' experience in the exploration for or the production of oil or gas.

(2) It shall be his duty to administer the provisions of KRS 353.500 to 353.720 subject to the direction and supervision of the commissioner.

(3) Before taking office, the director shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate shall be filed in the office of the Secretary of State.

(4) No director shall, while holding office, acquire any financial interest, directly or indirectly, in any venture or activity for the exploration for or production of oil or gas in this Commonwealth.

Section 66. The following KRS sections are repealed:

224.10-030 Bodies attached for administrative purposes.

224.10-055 Powers and duties of Governor.

224.10-060 Prior energy regulations and actions in effect until modified.

351.051 Commissioner -- Appointment.

Section 67. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 68. Any portion of law to the contrary notwithstanding, the General Assembly hereby confirms the Governor's Executive Order 2004-731 dated July 9, 2004, relating to the Environmental and Public Protection Cabinet, to the extent not otherwise confirmed or superseded by this Act.

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development,~~[the Public Protection and Regulation Cabinet,]~~ the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet,~~[the Labor Cabinet,]~~ the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Department of Corrections.
        (d) Department of Juvenile Justice.
        (e) Office of the Secretary.
        (f) Offices of the Deputy Secretaries.

(g) Office of General Counsel.
(h) Division of Kentucky State Medical Examiners Office.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
  (1) Kentucky Board of Education.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet:
(a) ***Office of the Secretary***~~[Environmental Quality Commission]~~.
  1. Office of Legislative and Intergovernmental Affairs.
  2. Office of Communications and Public Outreach.
  3. Office of Regulatory Affairs.
  4. Office of Legal Services.
  5. Office of Administrative and Information Services.
  6. Office of Administrative Hearings.
  7. Office of Inspector General.
  8. Mine Safety Review Commission.
  9. Workers' Compensation Board.
  10. Kentucky State Nature Preserves Commission.
  11. Kentucky Environmental Quality Commission.
  12. Kentucky Occupational Safety and Health Review Commission.
(b) ***Department for Environmental Protection***~~[Kentucky Nature Preserves Commission]~~.
  1. Office of the Commissioner.
  2. Division of Air Quality.
  3. Division of Water.
  4. Division of Environmental Services.
  5. Division of Waste Management.
  6. Division of Enforcement.
  7. Division of Compliance Assistance.
(c) Department for ***Natural Resources***~~[Environmental Protection]~~.
  1. Office of the Commissioner.
  2. Office of Technical and Administrative Support.
  3. Division of Mine Permits.
  4. Division of Mine Reclamation and Enforcement.

    5. ***Division of Abandoned Mine Lands.***
    6. ***Division of Oil and Gas Conservation.***
    7. ***Office of Mine Safety and Licensing.***
    8. ***Division of Forestry.***
    9. ***Division of Conservation.***

(d) Department ***of Public Protection***[~~for Natural Resources~~].

    1. ***Office of the Commissioner.***
    2. ***Division of Administrative Services.***
    3. ***Crime Victims Compensation Board.***
    4. ***Board of Claims.***
    5. ***Board of Tax Appeals.***
    6. ***Kentucky Athletic Commission.***
    7. ***Kentucky Horse Racing Authority.***
    8. ***Kentucky Public Service Commission.***
    9. ***Office of Alcoholic Beverage Control.***
    10. ***Office of Charitable Gaming.***
    11. ***Office of Financial Institutions.***
    12. ***Office of Housing, Buildings and Construction.***
    13. ***Office of Insurance.***

(e) Department ***of Labor***[~~for Surface Mining Reclamation and Enforcement~~].

    1. ***Office of the Commissioner.***
    2. ***Office of Occupational Safety and Health.***
    3. ***Office of Labor Management Relations and Mediation.***
    4. ***Office of Workplace Standards.***
    5. ***Office of Workers' Claims.***
    6. ***Workers' Compensation Funding Commission.***
    7. ***Kentucky Labor Management Advisory Council.***
    8. ***Occupational Safety and Health Standards Board.***
    9. ***Prevailing Wage Review Board.***
    10. ***Kentucky Employees Insurance Association.***
    11. ***Apprenticeship and Training Council.***
    12. ***State Labor Relations Board.***
    13. ***Workers' Compensation Advisory Council.***
    14. ***Workers' Compensation Nominating Commission.***
    15. ***Employers' Mutual Insurance Authority.***
    16. ***Division of Administrative Services.***

[~~(f) Office of Legal Services.~~

~~(g) Office of Information Services.~~

~~(h) Office of Inspector General.~~]

4. Transportation Cabinet:

(a) Department of Highways.

    1. Office of Program Planning and Management.
    2. Office of Project Development.
    3. Office of Construction and Operations.
    4. Office of Intermodal Programs.
    5. Highway District Offices One through Twelve.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.
(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.

6.[~~Environmental and Public Protection Cabinet:~~
~~(a) Public Service Commission.~~
~~(b) Department of Insurance.~~
~~(c) Department of Housing, Buildings and Construction.~~
~~(d) Department of Financial Institutions.~~
~~(e) Department of Mines and Minerals.~~
~~(f) Department of Public Advocacy.~~
~~(g) Department of Alcoholic Beverage Control.~~
~~(h) Kentucky Horse Racing Authority.~~
~~(i) Board of Claims.~~
~~(j) Crime Victims Compensation Board.~~
~~(k) Kentucky Board of Tax Appeals.~~
~~(l) Office of Petroleum Storage Tank Environmental Assurance Fund.~~
~~(m) Department of Charitable Gaming.~~
~~(n) Mine Safety Review Commission.~~

~~7.~~] Cabinet for Families and Children:
(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
    (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Human Resource Management.

7.[~~8.~~] Cabinet for Health Services.
(a) Department for Public Health.

(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

8.[~~9.~~] Finance and Administration Cabinet:
(a) Office of Financial Management.
(b) Office of the Controller.
(c) Department for Administration.
(d) Department of Facilities Management.
(e) State Property and Buildings Commission.
(f) Kentucky Pollution Abatement Authority.
(g) Kentucky Savings Bond Authority.
(h) Deferred Compensation Systems.
(i) Office of Equal Employment Opportunity Contract Compliance.
(j) Office of Capital Plaza Operations.
(k) County Officials Compensation Board.
(l) Kentucky Employees Retirement Systems.
(m) Commonwealth Credit Union.
(n) State Investment Commission.
(o) Kentucky Housing Corporation.
(p) Governmental Services Center.
(q) Kentucky Local Correctional Facilities Construction Authority.
(r) Kentucky Turnpike Authority.
(s) Historic Properties Advisory Commission.
(t) Kentucky Tobacco Settlement Trust Corporation.
(u) Eastern Kentucky Exposition Center Corporation.
(v) State Board for Proprietary Education.

9.[~~10. Labor Cabinet:~~
~~(a) Department of Workplace Standards.~~
~~(b) Department of Workers' Claims.~~
~~(c) Kentucky Labor Management Advisory Council.~~
~~(d) Occupational Safety and Health Standards Board.~~
~~(e) Prevailing Wage Review Board.~~
~~(f) Workers' Compensation Board.~~
~~(g) Kentucky Employees Insurance Association.~~
~~(h) Apprenticeship and Training Council.~~
~~(i) State Labor Relations Board.~~
~~(j) Kentucky Occupational Safety and Health Review Commission.~~
~~(k) Office of Administrative Services.~~
~~(l) Office of Information Technology.~~
~~(m) Office of Labor-Management Relations and Mediation.~~
~~(n) Office of General Counsel.~~
~~(o) Workers' Compensation Funding Commission.~~
~~(p) Employers Mutual Insurance Authority.~~

~~11.]~~ Revenue Cabinet:
  (a) Department of Property Valuation.
  (b) Department of Tax Administration.
  (c) Office of Financial and Administrative Services.
  (d) Department of Law.
  (e) Department of Information Technology.
  (f) Office of Taxpayer Ombudsman.
10.~~[12.]~~ Tourism Development Cabinet:
  (a) Department of Travel.
  (b) Department of Parks.
  (c) Department of Fish and Wildlife Resources.
  (d) Kentucky Horse Park Commission.
  (e) State Fair Board.
  (f) Office of Administrative Services.
  (g) Office of General Counsel.
  (h) Tourism Development Finance Authority.
11.~~[13.]~~ Cabinet for Workforce Development:
  (a) Department for Adult Education and Literacy.
  (b) Department for Technical Education.
  (c) Department of Vocational Rehabilitation.
  (d) Department for the Blind.
  (e) Department for Employment Services.
  (f) Kentucky Technical Education Personnel Board.
  (g) The Foundation for Adult Education.
  (h) Department for Training and Reemployment.
  (i) Office of General Counsel.
  (j) Office of Communication Services.
  (k) Office of Workforce Partnerships.
  (l) Office of Workforce Analysis and Research.
  (m) Office of Budget and Administrative Services.
  (n) Office of Technology Services.
  (o) Office of Quality and Human Resources.
  (p) Unemployment Insurance Commission.
12.~~[14.]~~ Personnel Cabinet:
  (a) Office of Administrative and Legal Services.
  (b) Department for Personnel Administration.
  (c) Department for Employee Relations.
  (d) Kentucky Public Employees Deferred Compensation Authority.
  (e) Kentucky Kare.
  (f) Division of Performance Management.
  (g) Division of Employee Records.
  (h) Division of Staffing Services.
  (i) Division of Classification and Compensation.
  (j) Division of Employee Benefits.
  (k) Division of Communications and Recognition.
  (l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.

2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) *Environmental and Public*[~~Natural Resources and Environmental~~] Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6)[~~ Public Protection and Regulation Cabinet.~~
~~(7)~~] Cabinet for Health Services.
(7)[~~(8)~~] Cabinet for Families and Children.
(8)[~~(9)~~] Finance and Administration Cabinet.
(9)[~~(10)~~] Tourism Development Cabinet.
(10)[~~(11)~~] Revenue Cabinet.
[~~(12) Labor Cabinet.~~]
(11)[~~(13)~~] Cabinet for Workforce Development.
(12)[~~(14)~~] Personnel Cabinet.

SECTION 4. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

There is established in the Office of the Secretary, an Office of Communications and Public Outreach, an Office of Administrative Hearings, an Office of Regulatory Affairs, an Office of Legislative and Intergovernmental Affairs, an Office of Inspector General, an Office of Legal Services, and an Office of Administrative and Information Services. Each office shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive directors shall be directly responsible to the secretary and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary. The Workers' Compensation Board and the Kentucky Occupational Safety and Health Review Commission shall be attached to the Office of the Secretary. The Environmental Quality Commission, which shall be headed by an executive director appointed by the secretary with the approval of the Governor, shall be attached to the Office of the Secretary. The Kentucky State Nature Preserves Commission, which shall be headed by a director, and the Mine Safety Review Commission, whose members shall be appointed by the Governor with the consent of the General Assembly, shall be attached to the Office of the Secretary.

SECTION 5. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the powers and duties set out in this and other chapters of the Kentucky Revised Statutes that are vested in the cabinet and the secretary to protect and enhance the state's natural resources and environment, the cabinet and the secretary are also vested with the powers and duties previously vested in the Public Protection and Regulation Cabinet and the Labor Cabinet, and the secretaries of those cabinets, so long as those powers and duties are not contrary to or in conflict with the organization of the cabinet established by statute or by executive order of the Governor, as ratified by the General Assembly.

(2) The Division of Energy shall be transferred to the Tourism Development Cabinet, Office of the Secretary. All personnel, functions, powers, and duties of the Division of Energy, not contrary to or in conflict with the organization of the Tourism Cabinet, as established by statute or by executive order of the Governor as ratified by the General Assembly, shall be transferred to the Tourism Development Cabinet.

Section 6. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of ***twenty-five (25)***[~~twenty-six (26)~~] members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;

14.[~~The secretary of the Public Protection and Regulation Cabinet or his designee;~~

~~15.~~] The secretary of the Tourism Development Cabinet or his designee;

15.[~~16.~~] Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;

16.[~~17.~~] Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;

17.[~~18.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

18.[~~19.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

19.[~~20.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

20.[~~21.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

21.[~~22.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

22.[~~23.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the

Commonwealth;

- (b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;
- (c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;
- (d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;
- (e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or
- (f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 7. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, ***executive directors,*** principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

- (a) The Governor;
- (b) The Lieutenant Governor;
- (c) The Secretary of State;
- (d) The Attorney General;
- (e) The Treasurer;
- (f) The Commissioner of Agriculture;

(g) The Auditor of Public Accounts; and

(h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally; and

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public.

Section 8. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
(b) Cabinet for Health Services
1. Office of Certificate of Need
a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
(c) Cabinet for Families and Children
1. Department for Community Based Services
a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
2. Department for Disability Determination Services
a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
(d) Justice Cabinet
1. Department of State Police
a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
2. Department of Corrections
a. Parole Board hearings conducted under authority of KRS Chapter 439
b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
3. Department of Juvenile Justice
a. Supervised placement revocation hearings conducted under KRS Chapter 635
(e)[~~ Labor Cabinet~~
~~1. Department of Workers' Claims~~
~~a. Workers' compensation hearings conducted under authority of KRS Chapter 342~~
~~(f)~~] ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet
1. Department for ***Natural Resources***[~~Surface Mining Reclamation and Enforcement~~]
a. Surface mining hearings conducted under authority of KRS Chapter 350
2. Department for Environmental Protection
a. Wild River hearings conducted under authority of KRS Chapter 146
b. Water resources hearings conducted under authority of KRS Chapter 151
c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
d. Environmental protection hearings conducted under authority of KRS Chapter 224
e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
3. Office of Workers' Claims
a. Workers' compensation hearings conducted under authority of KRS Chapter 342
4.[~~(g)~~] Kentucky Occupational Safety and Health Review Commission
a.[~~1.~~] Occupational safety and health hearings conducted under authority of KRS Chapter 338
5.[~~(h)~~] ***Department of*** Public Protection[~~ and Regulation Cabinet~~]
a.[~~1.~~] Board of Claims
aa[~~a.~~] Liability hearings conducted under authority of KRS Chapter 44
b.[~~2.~~] Public Service Commission
aa[~~a.~~] Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
(f)[~~(i)~~] Cabinet for Workforce Development
1. Department for Employment Services
a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
(g)[~~(j)~~] Secretary of State
1. Registry of Election Finance

a. Campaign finance hearings conducted under authority of KRS Chapter 121

(h)~~[(k)]~~ State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
3. Campus residency hearings conducted under authority of KRS Chapter 164
4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 9. KRS 15.255 is amended to read as follows:

(1) The Department of Law shall have the following powers, duties and functions:

(a) To prevent or remedy damage to the environment caused by any person, group, partnership, association, body corporate or politic, or any agency, department, board, commission, division, or authority, whether state or federal, or by commencing or intervening in any suit or action in state or federal courts, whether civil or criminal, to enforce any statute, ordinance, bylaw, or regulation, or to secure any common-law right or remedy;

(b) To counsel state agencies and commissions given the responsibility over environmental concerns including but not limited to the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet~~[, Department of Mines and Minerals,]~~ and the Public Service Commission;

(c) To exercise the common-law powers of the Attorney General in protecting the environment;

(d) To bring public nuisance and other actions in Circuit Courts in the name of the Commonwealth upon complaint by private citizens, when in the opinion of the Attorney General the activity or activities complained of may have a substantial impact upon the environment of the Commonwealth; and

(e) To develop guidelines related to the proper investigation of sexual misconduct by professionals which may be adopted by professional licensure boards.

(2) Nothing in this section shall be interpreted to derogate from any existing common-law or statutory right or remedy against damage to the environment.

Section 10. KRS 39F.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "General rescue squad" means a rescue squad which performs one (1) or more of the following functions as a stated mission of the organization:

(a) Light duty rescue;

(b) Extrication of persons from vehicles;

(c) Water rescue and recovery operations not utilizing divers;

(d) Search for lost, trapped, or missing persons not utilizing dogs;

(e) Low angle rescue and recovery operations;

(f) High angle rescue and recovery operations.

(2) "Reports and notification" means the reporting and notification of any search and rescue mission to the appropriate agency or person in the manner as specified by this chapter.

(3) "Rescue" means gaining access, rendering appropriate care, and transporting of a person or persons by whatever means, to a safe environment for appropriate care.

(4) "Rescue squad" means any organization which engages in the search for lost persons, rescue of persons, rescue of persons who are trapped or who are in need of rescue services, search for and recovery of drowned persons, or any other rescue related activity. "Rescue squad" shall not include the rescue of persons from a fire by a fire department, the extrication of persons from a vehicle or other activities which an emergency medical technician, emergency medical technician first responder, or paramedic is authorized to perform pursuant to applicable statutes and administrative regulations, if the activities are performed by a person for an ambulance service or in the role of a first responder. If these activities are performed other than as a first responder or in the role of an ambulance service and are involved in rescue operations, they come within the purview of activities of a rescue squad.

(5) "Search" means the process of looking for a person or persons whose location is not precisely known, and who may be in distress.

(6) "Search and rescue" ("SAR") means the process of looking for a lost, missing, or overdue person or persons who may be in distress, and rendering care with the use of appropriately trained and adequately equipped personnel.

(7) "Search and rescue mission" includes, but is not limited to, searching for a missing or lost person or persons, cave rescue, high angle or rough terrain rescue, urban search and rescue, dive rescue and recovery of drowning victims, inland water search, rescue, and recovery. "Search and rescue" may also include any mission permitted pursuant to this chapter. A "search and rescue mission" does not include mine rescue missions under the jurisdiction of the Department ***for Natural Resources***[~~of Mines and Minerals~~] pursuant to KRS Chapter 351.

(8) "Specialized rescue squad" means a rescue squad which performs one (1) or more of the following functions as the primary or sole mission of the organization:

(a) Cave rescue;

(b) Search utilizing dogs for lost, trapped or missing persons;

(c) Search for lost, trapped or missing persons, aircraft, or vehicles, utilizing aircraft, but does not apply to licensed air ambulances, active or reserve military organizations, the National Guard, or the Civil Air Patrol; and

(d) Water rescue and recovery operations utilizing divers.

(9) "Victim recovery" means the search for and the removal to the jurisdiction of the coroner of the remains of a person known or believed to be dead. If the person is found alive, it includes rescue of the person.

Section 11. KRS 45A.610 is amended to read as follows:

[~~(1)~~]By January 1, 1991, a minimum of fifteen (15) percent of the purchases of garbage can liners by state agencies shall be starch-based plastic garbage can liners. The percentage shall increase by five (5) percent annually until fifty (50) percent of the purchase of garbage can liners are purchases of starch-based plastic garbage can liners.

[~~(2) The Natural Resources and Environmental Protection Cabinet shall perform tests and experiments to determine whether or not it is advantageous for the Commonwealth to require use of starch-based biodegradable products or containers. The cabinet shall report its findings to the 1992 Regular Session of the General Assembly.~~]

Section 12. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor, Lieutenant Governor, and the Superintendent of Public Instruction, the heads of departments***, offices,*** and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education, arts, and humanities	10,000
Auditor of Public Accounts	25,000

Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Commissioner~~[Secretary]~~ of labor	5,000
Commissioner ***for natural resources***~~[of surface mining reclamation and enforcement]~~	50,000
State librarian	5,000
~~[Commissioner of mines and minerals~~	~~5,000]~~
Executive director~~[Commissioner]~~ of alcoholic beverage control	10,000
Executive director~~[Commissioner]~~ of financial institutions	25,000
Secretary for ***environmental and public protection***~~[natural resources and environmental protection]~~	10,000
Executive director~~[Commissioner]~~ of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health services	20,000
Secretary for families and children	20,000
Commissioner ***of***~~[for]~~ environmental protection	10,000
Commissioner of~~[Secretary for]~~ public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 13. KRS 68.178 is amended to read as follows:

(1) The fiscal court of any county may license off-site waste management facilities located within the county with the imposition of a license fee at a percentage rate not to exceed two percent (2%) per annum of the gross receipts of such a waste management facility owned or operated by self-employed individuals, partnerships, or corporations. The proceeds from the license fee shall be used to defray the general revenue requirements of the county where the facility is located. For purposes of assessing the licensing fee provided for in this section, off-site waste management shall consist of establishing and operating a facility whose principal purpose is treatment, storage, disposal, or a combination of these activities but shall not include those treatment, storage, or disposal activities which occur incidental to or which are not otherwise distinguishable from a broader manufacturing operation at the site of said operation.

(2) (a) The fiscal court of a county or the urban-county council of an urban-county government may license a solid waste landfill located within the county or urban-county area. The license fee may be set at not less than one cent ($0.01) but no more than fifty cents ($0.50) per ton of waste received by the landfill or set at up to five percent (5%) of gross receipts of the landfill.

(b) The license fee as set may be increased by an amount up to one-quarter (1/4) of the base fee per ton or on gross receipts of waste received at the landfill which originates from outside of the planning area. For purposes of this section, planning area shall mean those areas within Kentucky as indicated in solid waste management plans filed with the cabinet by a county, multicounty area, or waste management district. However, before a fee differential may be imposed the county or urban-county government shall demonstrate that the differential is reasonably related to additional government services which must be undertaken because of the landfilling of nonplanning area waste. This demonstration may be made by showing an unplanned for reduction in waste disposal capacity and a need to provide for future disposal capacity or impacts on roads, litter control or emergency services.

(c) The proceeds from the license fee shall be used to defray the government services provided to the landfill, necessary clean-up operations or emergency responses related to operation of the landfill or transporting waste to the landfill, necessary maintenance, improvement or construction of roads, and for the general revenue requirements of the county or urban-county government where the landfill is located.

(d) [~~Five percent (5%) of the license fee shall be remitted annually to the Natural Resources and Environmental Protection Cabinet until July 30, 1990. The cabinet shall use the amount received for state solid waste management activities.~~]Ten percent (10%) ***of the license fee*** shall be remitted annually in equal shares to all counties and urban-county governments in the planning area served by the landfill from where the fees originated which shall be used for local solid waste planning and plan implementation. Counties or urban-county governments desiring to impose the fee provided for herein are authorized to accept payments in lieu of the fee under duly-executed contracts between the county and the permitted site or facility. The fee provided for in this subsection shall be in lieu of the provisions of subsection (1). Special waste, as defined in KRS 224.50-760, except for waste from sanitary wastewater treatment facilities, shall be exempt from this subsection.

(3) In the case of hazardous waste facilities involving land disposal, including a regional integrated waste treatment and disposal demonstration facility as defined in KRS Chapter 224, the rate levied under this section shall be not more than five percent (5%) per annum of the gross receipts and shall be calculated so as to produce sufficient revenue to compensate the county for any additional costs incurred by it from having a hazardous waste facility located in its jurisdiction, including, but not limited to, the loss of ad valorem property tax revenues from the property on which the facility is located, the loss of ad valorem property tax revenues from abutting properties or other affected properties, the cost of providing any additional emergency services, the cost of monitoring air, surface water, ground water to the extent that other monitoring data is not available, and other costs established as being associated with the facility and for which the county is not otherwise compensated.

Section 14. KRS 131.190 is amended to read as follows:

(1) No present or former secretary or employee of the Revenue Cabinet, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the cabinet or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the secretary or any employee of the Revenue Cabinet from testifying in any court, or from introducing as evidence returns or reports filed with the cabinet, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The secretary or the secretary's designee may provide an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer.

(2) The secretary shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the cabinet shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the Revenue Cabinet under the gasoline excise tax law may be made public by the cabinet.

(4) Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Revenue Cabinet, or any other person.

(5) Statistics of crude oil as reported to the Revenue Cabinet under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Revenue Cabinet under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the cabinet by release to the ***Environmental and Public Protection Cabinet,*** Department ***for Natural Resources***[~~of Mines and Minerals~~].

(6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the cabinet may make public or divulge only those portions of mine maps submitted by taxpayers to the cabinet pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

Section 15. KRS 137.132 is amended to read as follows:

(1) As used in this section, "recovered inactive well" means a well that has been inactive for a consecutive two (2) year period or a well that has been plugged and abandoned, as determined by the ***Environmental and Public Protection Cabinet, Division of Oil and Gas Conservation***[~~Department of Mines and Minerals~~], and that resumes producing crude petroleum oil.

(2) Every taxpayer engaged in the production of crude petroleum oil within this Commonwealth shall be allowed a credit against the tax imposed under KRS 137.120 equal to four and one-half percent (4.5%) of the market value of crude petroleum oil that is produced from a recovered inactive well.

Section 16. KRS 143A.033 is amended to read as follows:

(1) As used in this section, "recovered inactive well" means a well that has been inactive for a consecutive two (2) year period or a well that has been plugged and abandoned, as determined by the ***Environmental and Public Protection Cabinet, Division of Oil and Gas Conservation***[~~Department of Mines and Minerals~~], and that resumes producing natural gas.

(2) Every taxpayer engaged in severing or processing natural gas within this Commonwealth shall be allowed a credit against the tax imposed under KRS 143A.020 equal to four and one-half percent (4.5%) of the gross value of natural gas that is produced from a recovered inactive well.

Section 17. KRS 148.876 is amended to read as follows:

(1) The power of eminent domain may only be exercised to acquire land in fee within the boundaries of the trail, except that the power of eminent domain shall not be exercised to acquire any privately owned dwelling, areas designated for residential structures and their surrounding properties, or property owned or leased, including adjacent or contiguous tracts of land leased or owned or which may be acquired, for the purposes of operating an oil or gas well, surface or underground coal mine operation, or surface or underground mineral quarrying operation, if the person holds a state permit or license issued by the ***Environmental and Public Protection Cabinet, Division of Mine Permits or Office of Mine Safety and Licensing***[~~Department of Surface Mining Reclamation and Enforcement or the Department of Mines and Minerals~~].

(2) Within the boundaries of the trail, the department may acquire, on behalf of the Commonwealth, fee title or lesser interests in land. Acquisition of land may be by gift, by purchase with donated funds, by funds appropriated by the General Assembly, by the use of proceeds from the sale of bonds, by exchange, by assumption of property tax payments, or by other authorized means. Notwithstanding the provisions in KRS 350.085(3) and 353.610, in acquiring any interests the Commonwealth or its agencies shall waive the three hundred (300) foot restriction contained in KRS 350.085(3) and boundary restrictions for a well set forth in KRS 353.610.

Section 18. KRS 151.629 is amended to read as follows:

(1) There is established an Interagency Technical Advisory Committee on Groundwater to assist the KGS in the development, coordination, and implementation of a groundwater monitoring network for the Commonwealth. The committee shall consist of one (1) representative from each of the following agencies, to be appointed by that agency:

(a) Division of Conservation of the Department for Natural Resources;

(b) Division of Environmental Health and Community Safety of the Cabinet for Health Services;

(c) Division of Forestry of the Department for Natural Resources;

(d) Division of Environmental Services of the Department of Agriculture;

(e) Division of Waste Management of the Department for Environmental Protection;

(f) Division of Water of the Department for Environmental Protection;

(g) Department for Environmental Protection;

(h)[~~Department of Mines and Minerals of the Public Protection and Regulation Cabinet;~~

~~(i)~~] Department for Natural Resources;

(i)[~~(j) Department for Surface Mining Reclamation and Enforcement;~~

~~(k)~~] Kentucky Geological Survey;

(j)[~~(l)~~] University of Kentucky College of Agriculture; and

(k)[~~(m)~~] University of Kentucky Water Resources Research Institute.

(2) The committee shall have two (2) nonvoting legislative liaisons who shall be members of the General Assembly. One (1) liaison shall be a House member appointed by the Speaker of the House of Representatives and one (1) liaison shall be a Senate member appointed by the President of the Senate. The chair of the committee shall be the director of the University of Kentucky Water Resources Research Institute. The duties and responsibilities of the committee shall include:

(a) Developing a plan to coordinate agencies for the overall characterization of the state's groundwater, including occurrence, flow systems, water quantity, and water quality;

(b) Reviewing the data entry process to ensure that all data collected is placed into the Kentucky Groundwater Data Repository;

(c) Establishing a long-term groundwater monitoring plan for the Commonwealth;

(d) Making recommendations for prioritization of the state's groundwater research needs; and

(e) Annually reviewing and evaluating groundwater data collection and analysis.

(3) In addition to the members identified in subsection (1) or (2) of this section, the committee may have, as one (1) of its members, one (1) nonvoting representative from the United States Geological Survey, appointed by that agency.

Section 19. KRS 154.47-025 is amended to read as follows:

The board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board, including, but not limited to, the following:

(1) Developing, in conjunction with other agencies, workforce training plans for the secondary wood products industry as provided for in KRS 154.47-055;

(2) Reviewing and recommending to the Cabinet for Economic Development the approval of proposals to establish business networks for businesses and industries engaged in any value-added processing of raw wood products or the manufacturing of wood products as set forth in KRS 154.47-040, and cooperating with the Cabinet for Economic Development to promote the development of business networks among secondary wood products businesses and industries;

(3) Advising the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet~~[and the Labor Cabinet]~~ on regulatory matters which impact the economic competitiveness and development of the state's secondary wood products industry;

(4) Advising the ***Department of*** Labor~~[Cabinet]~~ regarding modifications to the state workers' compensation laws in an effort to make Kentucky's secondary wood products industry more competitive;

(5) Advising the Finance and Administration Cabinet regarding procurement of Kentucky-made secondary wood products by state agencies, including the procurement of these products by the Department of Parks as part of any proposed state parks renovation projects;

(6) Soliciting, borrowing, accepting, receiving, investing, and expending funds from any public or private source, including, but not limited to, general fund appropriations of the Commonwealth of Kentucky, grants or contributions of money, property, labor, or other things of value to be used to carry out the corporation's operations, functions, and responsibilities;

(7) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities;

(8) Establishing benchmarks for the purpose of evaluating workforce training and technology transfer programs applicable to the secondary wood products industry;

(9) Employing consultants and other persons as may be required in the judgment of the board to be essential to the board's operations, functions, and responsibilities; and

(10) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its statutory powers, duties, and responsibilities.

Section 20. KRS 177.977 is amended to read as follows:

(1) The Transportation Cabinet shall publish a directory, including supporting maps and other documents, designating the official coal road system in coal impact and coal producing counties which shall include all public highways, roads, bridges, and streets over which quantities of coal sufficient to significantly affect the condition and state of repair of such highways, roads, bridges, and streets have been transported in the immediately preceding year. The cabinet shall further publish the total county mileage of the official coal road system and the total ton-miles within each coal impact and coal producing county for said preceding year.

(2) Every person, producer or processor shipping or transporting coal over the public highways, roads, bridges, and streets, shall file with the Transportation Cabinet information at intervals as the cabinet shall designate by administrative regulation promulgated pursuant to KRS Chapter 13A, for the purpose of identifying those highways, roads, and streets comprising the coal road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton-miles within each coal impact and coal producing county. A copy of the information furnished to the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet pursuant to the provisions of KRS 350.0285 and a copy of the information furnished to the Department ***for Natural Resources***~~[of Mines and Minerals]~~ pursuant to the provisions of KRS 351.070 and 352.420 shall be submitted to the Transportation Cabinet to satisfy the reporting requirements of this subsection and the transportation plan shall be annually updated to reflect in route changes.

Section 21. KRS 224.10-020 is amended to read as follows:

(1) There is established within the cabinet a Department for Natural Resources, a Department for Environmental Protection,~~[and]~~ a Department ***of Labor, and a Department of Public Protection***~~[for Surface Mining Reclamation and Enforcement]~~. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.

(2) There is established within the Department for Natural Resources a Division of Forestry, a Division of Conservation, a Division of Energy, an Office of Technical and Administrative Support, a Division of Mine Reclamation and

Enforcement, a Division of Mine Permits, a Division of Abandoned Mine Lands, a Division of Oil and Gas Conservation, and an Office of Mine Safety and Licensing. There shall be established within the Office of Mine Safety and Licensing a Division of Safety Inspection and Licensing, a Division of Explosives and Blasting, a Division of Investigation, and a Division of Safety Analysis, Training, and Certification. Each division shall be headed by a director and each office shall be headed by an executive director. Directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050 and, as appropriate, Section 64 of this Act. Both directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(3) (a) There is established within the Department of Labor, an Office of Occupational Safety and Health, an Office of Labor-Management Relations and Mediation, an Office of Workplace Standards, and a Division of Administrative Services. Each division shall be headed by a director and each office shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. The directors and the executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(b) The following agencies are attached to the Department of Labor for administrative purposes only:

1. Kentucky Labor Management Advisory Council;

2. Kentucky Employees' Insurance Association;

3. State Labor Relations Board;

4. Workers' Compensation Funding Commission;

5. Workers' Compensation Advisory Council;

6. Occupational Safety and Health Standards Board;

7. Prevailing Wage Review Board;

8. Apprenticeship and Training Council;

9. Employers' Mutual Insurance Authority;

10. Workers' Compensation Nominating Commission; and

11. Office of Workers' Claims.

(4) (a) There is established within the Department of Public Protection, a Division of Administrative Services, an Office of Financial Institutions, an Office of Insurance, an Office of Housing, Buildings, and Construction, an Office of Charitable Gaming, and an Office of Alcoholic Beverage Control. Each division shall be headed by a division director and each office shall be headed by an executive director. Division directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. Division directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(b) The following agencies are attached to the Department of Public Protection for administrative purposes only:

1. Kentucky Public Service Commission;

2. Crime Victims Compensation Board;

3. Board of Claims;

4. Board of Tax Appeals;

5. Kentucky Athletic Commission; and

6. Kentucky Horse Racing Authority.

Section 22. KRS 224.10-040 is amended to read as follows:

(1) The secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create~~[such]~~ positions***, to retain positions in effect prior to his or her appointment as secretary,*** and to employ the necessary personnel in such positions to enable the secretary to perform the functions of the cabinet. The secretary shall designate a person to act as deputy for him ***or her*** in the exercise of his duties in his absence.

(2) All appointments to positions not in the classified service shall be made pursuant to KRS 12.050~~[and such appointees shall be major assistants to the secretary and shall assist in the development of policy]~~.

(3) The secretary may designate a deputy to sign any or all final orders of the cabinet whether the orders are the result of hearing or agreement.

Section 23. KRS 224.10-050 is amended to read as follows:

The secretary shall establish the internal organization of the cabinet not established ***by statute or by executive order of the Governor, as ratified by the General Assembly,***~~[in KRS 224.10-040]~~ and shall divide the cabinet into such offices or divisions as the secretary may deem necessary to perform the functions, powers and duties of the cabinet, subject to the provisions of KRS Chapter 12. ***The secretary may retain or revise any offices or divisions in place prior to his or her appointment as secretary if retaining or revising the offices or divisions is not contrary to or in conflict with the organization of the cabinet established by***

statute or by executive order of the Governor, as ratified by the General Assembly.

Section 24. KRS 224.60-115 is amended to read as follows:

As used in KRS 224.60-120 to 224.60-150, unless the context otherwise requires:

(1) "Bodily injury and property damage" means only those actual economic losses to an individual or the individual's property resulting from bodily injuries and damages to property caused by a release into the environment from a petroleum storage tank. In this context, property damage includes damage to natural resources;

(2) "Cabinet" means the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet;

(3) "Claim" means any demand in writing for a certain sum;

(4) "Corrective action" means those actions necessary to protect human health and the environment in the event of a release from a petroleum storage tank. Corrective action includes initial responses taken pursuant to KRS 224.60-135, remedial actions to clean up contaminated groundwater, surface waters, or soil, actions to address residual effects after initial corrective action is taken, and actions taken to restore or replace potable water supplies. Corrective action also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred;

(5) "Dealer" means a person required to be licensed as a gasoline or special fuels dealer as defined in KRS 138.210(2);

(6) ***"Division" means the Division of Waste Management;***

(7) "Facility" means, with respect to any owner or operator, all petroleum storage tanks which are owned or operated by an owner or operator and are located on a single parcel of property or on any contiguous or adjacent property;

(8)[~~(7)~~] "Federal regulations" means regulations for underground petroleum storage tanks promulgated by the United States Environmental Protection Agency pursuant to Subtitle I of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act;

(9)[~~(8)~~] "Free product" means a regulated substance that is present as a non-aqueous phase liquid;

(10)[~~(9)~~] "Fund" means the petroleum storage tank environmental assurance fund and its subaccounts, the financial responsibility account and the petroleum storage tank account established pursuant to KRS 224.60-140;

(11)[~~(10)~~] "Gasoline" means gasoline as defined in KRS 138.210(4);

(12)[~~(11)~~] "Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, that is typically used in the operation of a motor engine, jet fuel, and any petroleum or petroleum-based substance typically used in the operation of a motor vehicle, including used motor vehicle lubricants and oils;

(13)[~~(12)~~] "Occurrence" means a release, or releases, of an accidental nature, requiring corrective action, from a petroleum storage tank or tanks located at the same facility, due to continuous or repeated exposure to conditions. An additional release or releases at the same facility in which the area requiring remedial action is separate from a previous remediation area or areas shall be considered a separate occurrence;

[~~(13) "Office" means the Office of Petroleum Storage Tank Environmental Assurance Fund;~~]

(14) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, the state, a municipality, commission, or political subdivision of the state. The term includes a consortium, a joint venture, the United States government, or a commercial entity;

(15) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute. The term includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating oil, special fuels, lubricants, and used oil;

(16) "Petroleum storage tank" means an underground storage tank, as defined by KRS 224.60-100, which contains petroleum or petroleum products but, for the purpose of participation or eligibility for the fund, shall only include tanks containing motor fuels and shall not include petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel or tanks used exclusively for storage of fuel used for the purposes of powering locomotives or tanks owned by a federal agency or the United States government;

(17) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(18) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(19) "Received" means the same as defined in KRS 138.210(5);

(20) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law;

(21) "Special fuels" means special fuels as defined in KRS 138.210(4); and

(22) "Third party" means a person other than the owner or operator of a facility, or the agents or employees of the owner or operator, who sustains bodily injury or property damage as a result of a release from that facility.

Section 25. KRS 224.60-120 is amended to read as follows:

(1) Each petroleum storage tank owner or operator shall establish and maintain evidence of financial responsibility, as provided for in this section, for taking corrective action and for compensating third parties for bodily injury and property damage.

(a) For petroleum storage tank owners or operators of eleven (11) or more tanks, the level of financial responsibility to be established and maintained shall be twelve thousand five hundred dollars ($12,500) per occurrence for taking corrective action and twelve thousand five hundred dollars ($12,500) per occurrence for compensating third parties for bodily injury and property damage.

(b) For petroleum storage tank owners or operators of six (6) to ten (10) tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be two thousand five hundred dollars ($2,500) per occurrence for taking corrective action and two thousand five hundred dollars ($2,500) per occurrence for compensating third parties for bodily injury and property damage.

(c) For petroleum storage tank owners or operators of five (5) or less tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be five hundred dollars ($500) per occurrence for taking corrective action and for compensating third parties for bodily injury and property damage.

(2) Evidence of financial responsibility may be established by any combination of the following:

(a) Commercial or private insurance, including risk retention groups;

(b) Qualification as a self-insurer;

(c) A guarantee, surety bond, or letter of credit; or

(d) Any other reasonable and economically practicable means in a form acceptable to the ***division***[~~office~~].

(3) To qualify as a self-insurer, the petroleum storage tank owner or operator shall demonstrate a net worth in excess of the amounts specified in subsection (1) of this section. "Net worth" shall mean the monetary value of assets that remain after deducting liabilities. "Assets" shall mean all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(4) The total liability of any guarantor under KRS 224.60-105 to 224.60-160 is limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the petroleum storage tank owner or operator pursuant to this section. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to a petroleum storage tank owner or operator, including, but not limited to, the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. "Guarantor" shall mean any person, other than the petroleum storage tank owner or operator, who provides evidence of financial responsibility for a petroleum storage tank owner or operator pursuant to this section.

(5) It is the intent of the General Assembly that the fund established pursuant to KRS 224.60-140, combined with the financial responsibility required by this section, may be used by petroleum storage tank owners or operators to demonstrate their compliance with any financial responsibility requirements promulgated under federal regulations.

(6) The ***Department for Environmental Protection, Division of Waste Management,***[~~office~~] shall promulgate administrative regulations to implement this section. In promulgating administrative regulations, the ***division***[~~office~~] shall not restrain or limit the use of any of the means of establishing financial responsibility specified in this section. The administrative regulations may allow a twenty-five percent (25%) reduction in the level of financial responsibility set in subsection (1) of this section for the timely completion of corrective action.

Section 26. KRS 224.60-130 is amended to read as follows:

(1)[~~ There is created within the Public Protection and Regulation Cabinet, Office of the Secretary, the Office of Petroleum Storage Tank Environmental Assurance Fund.~~

~~(2)~~] The ***Environmental and Public Protection Cabinet, Department for Environmental Protection, Division of Waste Management,***[~~Office of Petroleum Storage Tank Environmental Assurance Fund~~] shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the ***division***[~~office~~] may distinguish between types, classes, and ages of petroleum storage tanks. The ***division***[~~office~~] may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the ***division***[~~office~~] for reimbursement from the fund for the performance of corrective action. At a minimum, the ***division***[~~office~~] shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the ***division***[~~office~~] shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The ***division***[~~office~~] may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the ***division***[~~office~~] on or before January 15, 2008. To insure cost effectiveness, the ***division***[~~office~~] shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the ***division***[~~office~~] may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the ***division***[~~office~~];

(d) Establish a small operator assistance account within the fund which may be used by the ***division***[~~office~~] to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2013. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2004, the ***division***[~~office~~] shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The ***division***[~~office~~] shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the ***division***[~~office~~] shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the ***division***[~~office~~] regarding the payment of claims from the fund in accordance with KRS ***224.10-410 to 224.10-470***[~~Chapter 13B~~];

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the ***division***[~~office~~], for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account. The ***division***[~~office~~] shall, by administrative regulation, set the entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator. The expenditures shall be paid from the appropriate account;

(j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the ***division***[~~office~~] may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;

(k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

(l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The ***division***[~~office~~] may collect soil or water samples or require storage tank owners or operators to split samples with the ***division***[~~office~~] for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the ***division***[~~office~~] to collect or split samples shall make the facility ineligible for fund participation;

(m) Have ***inspectors***[~~assurance fund auditors~~] on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the ***division***[~~office~~] schedule an ***inspector***[~~assurance fund auditor~~] to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an ***inspector***[~~auditor~~] fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the ***division***[~~assurance fund~~] no later than ten (10) days prior to the proposed date that an ***inspector***[~~auditor~~] is not available on the proposed date, in which event a representative of the ***division***[~~assurance fund~~] shall contact the operator and schedule a new date. If no ***inspector***[~~auditor~~] is present at the rescheduled date, the removal may then proceed without penalty; and

(n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter.

The funding and operations of the small operator assistance account and the small operator's tank removal account shall end on July 15, 2008.

(2)[~~(3)~~] The ***division***[~~office~~] may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(3)[~~(4)~~] The ***division***[~~office~~] may sue and be sued in its own name.

(4)[~~(5)~~] The ***division***[~~office~~] may transfer funds from the petroleum storage tank account to the small operator tank removal account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The ***division***[~~office~~] may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection ***(1)***[~~(2)~~](c) of this section.

Section 27. KRS 224.60-140 is amended to read as follows:

(1) There is hereby created the petroleum storage tank environmental assurance fund. The fund shall consist of a financial responsibility account and a petroleum storage tank account. Each account shall be maintained as a separate and distinct interest-bearing account. Interest credited to an account shall be retained in that account. All of the following amounts shall be deposited in the fund:

(a) Four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the financial responsibility account;

(b) One cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the petroleum storage tank account;

(c) Money appropriated by the General Assembly for deposit in each account;

(d) Any money recovered by the fund pursuant to this section shall be deposited in the appropriate account; and

(e) Any money collected in the form of penalties levied pursuant to KRS 224.60-155 shall be deposited to the appropriate account.

(2) Money in the fund, financial responsibility account and the petroleum storage tank account shall be used by the ***division***[~~office~~] for the following purposes:

(a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action required by the cabinet to be undertaken as the result of a release into the environment from a petroleum storage tank. Reimbursement shall be limited to only those costs, expenses, and other obligations incurred to comply with corrective action requirements established in law or administrative regulation by the cabinet. Additional costs related to compliance with a local program operating under KRS 224.60-105(4) shall be neither reimbursable by the fund nor imposed on the owner or operator. Reimbursement shall not include the costs related to the removal, or actions incidental to the removal, of a tank system except as authorized under KRS 224.60-130***(1)***[~~(2)~~](j);

(b) For payment of or reimbursement for third-party claims for bodily injury and property damage, related to a facility eligible for participation in the financial responsibility account, which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;

(c) To pay the reasonable, prorated costs incurred by the ***division***[~~office~~] in administering each account; and

(d) The cost to operate the small operators' assistance account pursuant to KRS 224.60-130***(1)***[~~(2)~~](d), the small operators' tank removal account pursuant to KRS 224.60-130***(1)***[~~(2)~~](j), to perform or contract for the performance of financial audits conducted under KRS 224.60-130***(1)***[~~(2)~~](k), and to employ sufficient ***inspectors***[~~assurance fund auditors~~] to carry out the provisions of KRS 224.60-130 and to set forth their duties. These costs shall be prorated to each account.

(3) The use of the fund shall not exceed one million dollars ($1,000,000) per occurrence for corrective action and one million dollars ($1,000,000) per occurrence for compensating third parties for bodily injury and property damage.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the ***division***[~~office~~] for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the ***division***[~~office~~].

(7) The ***division***[~~office~~] or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time. The ***division***[~~office~~] shall by phone or facsimile transmission immediately notify the claim applicant and its consultant, if applicable, when the claim is determined to be deficient. The notification shall provide sufficient information to allow the applicant and its consultant, if applicable, to begin to correct the deficiency. The ***division***[~~office~~] shall then notify the applicant and its consultant, if applicable, by certified mail of the deficiency. The notice shall indicate how many days remain in the ninety (90) day review period from the time of mailing. The review period shall be tolled pending submittal of information responding to the deficiency, but not to exceed thirty (30) days. When the ***division***[~~office~~] receives information that corrects the deficiency, or at the end of the thirty (30) day period, the ***division***[~~office~~] shall complete the review of the claim within the time remaining in the ninety (90) day review period. Nothing in this section shall be construed as preventing the fund from making partial reimbursement as appropriate.

(8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the ***division***[~~office~~] from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the ***division's***[~~office's~~] cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsections (8) and (19) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the ***division***[~~office~~] pursuant to this section shall be deposited in the appropriate account.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13) (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The appropriate account shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14) (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.

(17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks used exclusively for storage of fuel used for the purposes of powering locomotives.

(18) (a) Any person filing a claim for reimbursement from the ***division***[~~office~~] shall, prior to filing the claim for reimbursement, ensure full payment of the claims of all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor or materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement.

(b) A vendor or subcontractor may waive, in writing, his right to receive full payment before the person files the claim for reimbursement. Any vendor or subcontractor who waives, in writing, his right to full payment shall also waive, in writing, his right to take legal recourse against the ***division***[~~office~~] and the underground storage tank facility owner or operator for nonpayment from a prime contractor for work performed or materials supplied to the prime contractor during corrective action at an underground storage tank facility. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall acknowledge in the written waiver that his, his heirs', successors', and assigns' sole recourse for the nonpayment of work performed or materials supplied to a prime contractor during corrective action at an underground storage tank facility is to proceed against the prime contractor for whom he performed the work or supplied materials. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall release and discharge any liens filed as a result of work performed or materials provided at the underground storage tank facility. Subcontractor and vendor waivers must be made on standard forms furnished by the ***division***[~~office~~]. Their signatures must be notarized.

(c) Unless the provisions of paragraph (b) of this subsection apply, any person filing a claim for reimbursement from the ***division***[~~office~~] shall certify, by affidavit, on standard forms furnished by the ***division***[~~office~~], that all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor and materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement, have been paid in full as of the date of submission of the claim for reimbursement. A single affidavit may be made for each claim for reimbursement, provided, however, that the representations made in the affidavit shall be applied to each vendor or subcontractor individually, and, where false, shall be treated, as to each vendor or subcontractor, as a separate violation for the purpose of applying any criminal statute.

(d) Any person with responsibility for administering the ***division***[~~office~~] who believes, or has information, that an affidavit submitted pursuant to this subsection contains false or misleading information, or any person with responsibility for administering the ***division***[~~office~~] who believes or has information that an application for financial assistance or a claim for reimbursement contains false or misleading information, shall provide that information to the Commonwealth's attorney whose jurisdiction includes the county where the majority of the subject underground storage tank facility is located. That person may additionally provide the information to any other interested prosecutor with jurisdiction to prosecute crimes pertaining to an application for financial assistance or the claim for reimbursement.

(19) Any person who knowingly makes a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be responsible for and shall not be reimbursed for any amounts incurred based upon the false statement, representation, or certification. Any costs incurred and paid from the fund which are based on a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be recovered by the fund administrators from the person who asserted the false statement, representation, or certification.

Section 28. KRS 303.100 is amended to read as follows:

A burial association desiring to do business in this state shall file with the ***executive director of the Office of Insurance***[~~commissioner~~] a power of attorney as is required of insurance companies, designating the ***executive director***[~~commissioner~~] as the proper person upon whom process may be served.

Section 29. KRS 304.2-010 is amended to read as follows:

There is continued ***within the Environmental and Public Protection Cabinet, Department of Public Protection, an office***[~~a department of state government~~] known as the ***Office***[~~Department~~] of Insurance.

Section 30. KRS 304.2-020 is amended to read as follows:

(1) The ***executive director***[~~insurance commissioner~~] is the head of the ***Office***[~~Department~~] of Insurance.

(2) The ***executive director shall be appointed by the secretary of the Environmental and Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050***[~~commissioner shall be appointed by the Governor with the consent of the Senate, for a term not to exceed four (4) years on the basis of his merit and fitness to perform the duties of the office as provided in KRS 12.040. If the Senate is not in session when a term expires or a vacancy occurs, the Governor shall make the appointment to take effect at once, subject to the approval of the Senate when convened~~].

(3) The following divisions are established within the Office of Insurance and shall be headed by directors appointed by the secretary of the Environmental and Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050:

(a) Property and Casualty Division;

(b) Division of Life Insurance;

(c) Division of Financial Standards and Examination;

(d) Division of State Risk and Insurance Services;

(e) Division of Agent Licensing;

(f) Division of Insurance Fraud Investigation;

(g) Division of Consumer Protection and Education;

(h) Division of Health Insurance Policy and Managed Care; and

(i) Division of Kentucky Access.

Section 31. KRS 304.2-100 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] shall personally supervise the operations of the ***office***[~~department~~].

(2) The ***executive director***[~~commissioner~~] shall examine and inquire into violations of this code, shall enforce the provisions of this code with impartiality and shall execute the duties imposed upon him by this code.

(3) The ***executive director***[~~commissioner~~] shall have the powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code.

(4) The ***executive director***[~~commissioner~~] may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper upon reasonable and probable cause to determine whether any person has violated any provisions of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.

(5) The ***executive director***[~~commissioner~~] may establish and maintain such branch offices in this state as may be reasonably required for the efficient administration of this code.

(6) The ***executive director***[~~commissioner~~] shall have such additional powers and duties as may be provided by other laws of this state.

Section 32. KRS 336.010 is amended to read as follows:

As used in ***this chapter***[~~KRS 336.010 to 336.160~~], unless the context requires otherwise:

(1) "Commissioner" means commissioner of the Department of ***Labor***[~~Workplace Standards~~] under the direction and supervision of the secretary of the ***Environmental and Public Protection***[~~Labor~~] Cabinet;[~~ and~~]

(2) "Department" means Department of ***Labor; and***

(3) "Secretary" means the secretary of the Environmental and Public Protection Cabinet[~~Workplace Standards~~].

Section 33. KRS 336.015 is amended to read as follows:

(1) The ***commissioner***[~~secretary~~] of ***the Department of*** Labor shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the[~~ commissioner and Department of~~] Labor ***Cabinet***.

(2) The ***Department of*** Labor[~~ Cabinet~~] shall consist of the ***Office of Occupational Safety and Health, the Office of Labor Management Relations and Mediation, the Office of Workplace Standards, and the Division of Administrative Services. Each of the offices shall be headed by an executive director and each division shall be headed by a division director. Executive directors and division directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050 and, as appropriate, KRS 342.228***[~~Offices of the Secretary, General Counsel, Administrative Services, Information Technology, Labor Management Relations and Mediation; the Kentucky Workers'~~

~~Compensation Funding Commission; the Workers' Compensation Board; the Occupational Safety and Health Review Commission; and the Departments of Workplace Standards, and Workers' Claims. The commissioner of the Department of Workplace Standards and the Department of Workers' Claims within the Labor Cabinet shall be under the direction and control of the secretary of the Labor Cabinet~~].

(3) The following agencies are attached to the department for administrative purposes only:

- ***(a) Kentucky Labor Management Advisory Council;***
- ***(b) Kentucky Employees' Insurance Association;***
- ***(c) State Labor Relations Board;***
- ***(d) Workers' Compensation Funding Commission;***
- ***(e) Workers' Compensation Advisory Council;***
- ***(f) Occupational Safety and Health Standards Board;***
- ***(g) Prevailing Wage Review Board;***
- ***(h) Apprenticeship and Training Council;***
- ***(i) Employers' Mutual Insurance Authority;***
- ***(j) Workers' Compensation Nominating Commission; and***
- ***(k) Office of Workers' Claims.***

Section 34. KRS 336.020 is amended to read as follows:

(1) The ***Office***[~~Department~~] of Workplace Standards shall be headed by ***an executive director***[~~a commissioner~~] and shall be divided for administrative purposes into the ***Division***[~~Divisions~~]of Employment Standards, Apprenticeship and Training; ***and the Division of*** Workers' Compensation Funds[~~; Occupational Safety and Health Compliance; and Education and Training for Occupational Safety and Health~~].

(2) The ***Office***[~~Department~~] of Workers' Claims shall be administered by ***an executive director***[~~a commissioner~~] and shall be divided for administrative purposes into the Divisions of Claims Processing and Appeals, Information and Research, Security and Compliance, ***and Ombudsman and Special Services***[~~Administrative Law Judges, and Insurance~~].

(3) The Office of Occupational Safety and Health shall be administered by an executive director and shall be divided for administrative purposes into the Division of Compliance and the Division of Education and Training.

Section 35. KRS 336.030 is amended to read as follows:

The commissioner, with the approval of the ***secretary of the Environmental and Public Protection Cabinet and the*** Governor, shall appoint necessary deputies, attorneys, statisticians, inspectors and other employees and fix their salaries according to law. These employees shall receive their actual necessary expenses.

Section 36. KRS 336.164 is amended to read as follows:

(1) The council shall function as an advisory agent of state government and provide leadership and assistance for labor and management in this state, and shall serve to effect improved labor-management relations within the state, and to thereby attract and encourage new and existing industry in this state.

(2) The council shall not infringe upon or assume the responsibilities, duties or functions of the ***Department of*** Labor[~~ Cabinet~~] or Cabinet for Economic Development. The council may make recommendations to the Governor and the Legislature on matters relating to labor-management problems in this state and any other matter it deems necessary.

(3) Meetings of the council may be held at any location in this state; however the principal office of the council will be located in Frankfort, Kentucky.

(4) The ***commissioner of the Department***[~~secretary~~] of labor shall supply necessary staff and supplies to the council as well as funds for reimbursing each member for reasonable and necessary expenses incurred as a result of attending council meetings, and he ***or she*** shall act as the executive secretary of the council. The executive director of the Office of Labor-Management Relations and Mediation shall be responsible for the coordination of such staff and supplies.

Section 37. KRS 338.015 is amended to read as follows:

As used in this chapter:

(1) "Employer" shall mean any entity for whom a person is employed except those employers excluded in KRS 338.021.

(2) "Employee" shall mean any person employed except those employees excluded in KRS 338.021.

(3) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(4) "Occupational safety and health hazard" means any practice or condition in a place of employment which may be deemed detrimental to the safety and health of employees.

(5) "Occupational injury or illness" means any abnormal condition or disorder of an employee caused by exposure to factors

associated with his employment.

(6) "Board" means the Kentucky Occupational Safety and Health Standards Board established under this chapter.

(7) "***Executive director***[~~Commissioner~~]" means the ***executive director***[~~commissioner~~] of the ***Office of Occupational Safety and Health***[~~Kentucky Department of Workplace Standards~~] under the direction and supervision of the ***commissioner of the Department of Labor***[~~secretary of the Labor Cabinet~~].

(8) "Review commission" means the Kentucky Occupational Safety and Health Review Commission established under this chapter.

(9) The term "national consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(10) The term "established federal standard" means any operative occupational safety and health standard established by any agency of the United States government.

(11) "Office" means the Office of Occupational Safety and Health.

(12) "Commissioner" means the commissioner of the Department of Labor.

Section 38. KRS 338.071 is amended to read as follows:

(1) There is hereby established the Kentucky Occupational Safety and Health Review Commission consisting of three (3) members appointed by the Governor on the basis of their experience and competence in the fields of occupational safety and health. The members selected shall be qualified to represent the interest of employers, employees, and the occupational safety and health profession with a minimum of five (5) years experience in their respective fields.

(2) Members of the review commission shall serve terms of four (4) years and until their successors are appointed.

(3) The review commission shall hold monthly meetings and additional meetings as deemed necessary. A majority of the review commission constitutes a quorum for the transaction of business. Special meetings of the review commission may be called upon reasonable notice by the commissioner or by any two (2) members of the commission.

(4) The review commission shall hear and rule on appeals from citations, notifications, and variances issued under the provisions of this chapter and adopt and promulgate rules and regulations with respect to the procedural aspect of its hearings.

(5) The review commission shall have the authority to employ a secretary, hearing officers, and other employees as may become necessary.

(6) The chairman of the commission and each of the other two (2) members shall be paid a salary fixed under KRS 64.640.

(7) The secretary of the commission shall be paid a salary to be fixed by the commission, with the approval of the Governor. The commission shall fix the compensation of all its other employees.

(8) The commissioners and the secretary and employees of the commission are entitled to all necessary expenses incurred in traveling on business of the commission.

(9) The commission shall be attached to the Environmental and Public Protection Cabinet, Office of the Secretary for administrative purposes only.

Section 39. KRS 338.161 is amended to read as follows:

(1) The ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] shall develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. Each employer shall make, keep and preserve, and make available to the ***executive director***[~~commissioner~~] and the Secretary of the United States Department of Labor or the Secretary of the United States Department of Health and Human Resources, such records regarding his activities relating to this chapter as may be prescribed by regulation.

(2) The ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protection and obligations under this chapter.

Section 40. KRS 338.181 is amended to read as follows:

The ***Office of Occupational Safety and Health***[~~Kentucky Department of Workplace Standards~~] is empowered to administer the provisions of this chapter to employers, employees, and places of employment under the jurisdiction of the United States government pursuant to any agreement between the Commonwealth and the United States government. Pursuant to such agreement, the ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] is empowered to make employer reports and data available to the United States government.

Section 41. KRS 339.210 is amended to read as follows:

As used in KRS 339.220 to 339.450 "gainful occupation" does not include employment in farm work or in domestic service in a private home, nor occasional employment by a householder in connection with the household and not in connection with the householder's business or occupation, such as grass cutting or carrying ashes or similar casual domestic tasks, nor the delivery of newspapers on regularly scheduled routes, nor to employment as an actor or performer in motion pictures or theatrical productions, or in radio or television productions, nor to employment of minors by their own parents or persons standing in the place of a parent in occupations other than manufacturing, mining, or those found by the ***executive director of the Office of Workplace Standards***[~~commissioner of labor~~] to be particularly hazardous.

Section 42. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "***Office***[~~Department~~]" means the ***Office***[~~Department~~] of Workers' Claims in the ***Department of*** Labor[~~ Cabinet~~].

(9) "***Executive director***[~~Commissioner~~]" means the ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited

liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the ***Office***[~~Kentucky Department~~] of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the

effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the ***executive director***[~~commissioner~~] using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The ***executive director***[~~commissioner~~] shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the ***executive director***[~~commissioner~~]. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The ***executive director***[~~commissioner~~] shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the ***office***[~~department~~] and from the records of the Department for Employment Services, Cabinet for Workforce Development. The ***executive director***[~~commissioner~~] shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The ***executive director***[~~commissioner~~] shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the ***office***[~~department~~] and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the ***executive director***[~~commissioner~~], which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the ***executive director***[~~commissioner~~] pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 43. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter, an owner or owners of a business, including qualified partners of a partnership owning a business, or qualified members of a limited liability company, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee if the owner, owners, qualified partners, or qualified members of a limited liability company elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of the owners, partners, or members of a limited liability company to provide coverage for their employees, nonqualified partners, or nonqualified members, if any, required under this chapter.

(2) When an owner, owners, qualified partners, or qualified members of a limited liability company have elected to be included as employees, this inclusion shall be accomplished by the issuance of an appropriate endorsement to a workers' compensation insurance policy.

(3) For the purpose of this section, "qualified partner" or "qualified member or members" means, respectively, a partner who has entered into a meaningful partnership agreement or a member who has entered into meaningful articles of organization

or a meaningful operating agreement of a limited liability company, which document shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership or limited liability company and that the partner or member has made some contribution to the partnership or limited liability company which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership or limited liability company.

(4) For the purposes of this section, "nonqualified partner" or "nonqualified member" means, respectively, a person who has entered into a partnership agreement, or articles of organization or operating agreement of a limited liability company, which document shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership or limited liability company; that the person will not participate in the decision-making of the partnership or limited liability company and will not participate in the profits and losses of the business engaged in by the partnership or limited liability company.

(5) Every partnership filing a partnership agreement and every limited liability company filing articles of organization or an operating agreement for the purpose of exemption pursuant to the provisions of KRS 342.340 shall, on or before April 15 of each year, file with the ***executive director***[~~commissioner~~] the employer identification number assigned to the partnership or limited liability company by the Internal Revenue Service. On or before April 15 of each year, each partnership and each limited liability company having a partnership agreement, operating agreement, or articles of organization on file with the ***executive director***[~~commissioner~~] shall file a copy of the tax return of the partnership or limited liability company with the ***executive director***[~~commissioner~~]. Failure to comply with the provisions of this subsection shall be prima facie evidence that the partnership agreement or limited liability company articles of organization filed with the ***executive director***[~~commissioner~~] is composed, respectively, of "nonqualified partners" or "nonqualified members", respectively, as defined in this section, and the ***executive director***[~~commissioner~~] shall promptly notify interested government agencies of the failure of the filed partnership agreement or limited liability company articles of organization or operating agreement to indicate compliance with KRS 342.340. With particular reference to employers engaged in coal mining, the ***executive director***[~~commissioner~~] shall promptly report the failure to comply with the provisions of this subsection to the ***Environmental and Public Protection Cabinet, Department of Natural Resources, Office of Mine Safety and Licensing,***[~~Department of Mines and Minerals~~] so that appropriate action may be undertaken pursuant to KRS 351.175.

(6) For purposes of this section, a "limited liability company" means an entity defined in KRS 275.015 and organized under the provisions of KRS Chapter 275.

Section 44. KRS 349.010 is amended to read as follows:

As used in this chapter:

(1) "Abandoned" when used in connection with a well or hole means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of coalbed methane or the injection or disposal of fluid therein;

(2) "Coal interest holder" means every record coal owner, record coal lessee, mine licensee as defined in KRS 352.010(1)(r) and mine permittee as defined in KRS 350.010(21) whose coalbed is penetrated, or proposed to be penetrated, by a coalbed methane well;

(3) "Coalbed" or "coal seam" means a seam of coal, whether workable or unworkable;

(4) "Coalbed methane" means gas produced from a reservoir found in a coalbed, a mined-out area, or gob;

(5) "Coalbed methane well" means any well drilled, deepened, converted, or reopened for the purpose of capturing coalbed methane for sale or use. Any well initially used for a coal mining-related purpose, such as a vent well, but which is subsequently used for the purpose of recovering coalbed methane for sale or use, shall then be deemed to be a coalbed methane well and shall comply with the provisions of this chapter at the time that the well is converted or used for the purpose of recovering coalbed methane for sale or use;

(6) "Commissioner" means the commissioner of the Department ***for***[~~of~~] Natural Resources;

(7) "Correlative rights" means the reasonable opportunity of each person entitled to recover, without waste, the coalbed methane in and under his or her tract or tracts, or the equivalent thereof;

(8) "Department" means the Department ***for***[~~of~~] Natural Resources;

(9) "Director" means the director of ***the Division of*** Oil and Gas Conservation as established in KRS 353.530;

(10) "Drilling unit" means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable coalbed methane in the area. Where the department has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;

(11) ***"Division" means the Division of Mine Permits in the Department for Natural Resources***[~~"DSMRE" means the Department for Surface Mining Reclamation and Enforcement as established in KRS 350.035~~];

(12) "Field rules" means rules established by orders of the review board relating to the drilling, completion, production of, and specifications for coalbed methane wells in a particular geographic area as defined by an order;

(13) "Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the

mined-out coalbed;

(14) "Gob well" means a well drilled or a vent hole converted to a well pursuant to this chapter which produces or is capable of producing coalbed methane for sale or use, from a de-stressed zone associated with any full seam extraction of coal that extends above or below a mined-out coalbed;

(15) "Horizontally drill" or "horizontal drilling" means the intentional act of drilling a borehole, shaft, or hole, which deviates from vertical for the purpose of penetrating a coal seam to produce coalbed methane;

(16) "Mine licensee" means the mine licensee as defined in KRS 352.010(1)(r);

(17) "Mine permittee" means the permittee as defined in KRS 350.010(21);

(18) "Nonparticipating working interest owner" means a coalbed methane owner or lessee of a tract included in a drilling unit who elects to share in the operation of the coalbed methane well on a carried basis by agreeing to have his or her proportionate share of the costs allocable to his or her interest charged against his or her share of production from the coalbed methane well;

(19) "Nonparticipating operator" means a nonparticipating working interest owner who is also the operator of the coalbed methane well;

(20) "Operator" means any owner of the right to drill, develop, operate, and produce coalbed methane from a pool and to appropriate the coalbed methane produced therefrom, either for himself or herself, or for himself, herself, and others; in the event there is no coalbed methane lease in existence with respect to the tract in question, the owner of the coalbed methane rights therein shall be considered as an "operator" to the extent of seven-eighths (7/8) of the coalbed methane in that portion of the pool underlying the tract owned by that owner, and as a "royalty owner" as to one-eighth (1/8) interest in that coalbed methane;

(21) "Other interested coalbed methane parties" means all working interest owners other than the operator, all royalty and overriding royalty interest owners or holders, and any other party who owns or holds a right or interest in a drilling unit, coalbed methane well site for which a drilling permit has been issued or is pending, and all associated equipment, facilities, infrastructure, and improvements;

(22) "Participating working interest owner" means a coalbed methane owner or lessee who elects to bear a share of the risks and costs of drilling, completing, equipping, operating, plugging, and abandoning a coalbed methane well equal to the proportion which the acreage in the drilling unit he or she owns or holds under lease bears to the total acreage of the drilling unit;

(23) "Participating operator" means a participating working interest owner who is also the operator of the coalbed methane well;

(24) "Person" means any person, corporation, association, partnership, limited liability company, receiver, governmental agency subject to this chapter, trustee, so-called common law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(25) "Plat" means a map, drawing, or print showing the location of a well;

(26) "Review board" means the Coalbed Methane Well Review Board;

(27) "Royalty owner" means any owner of coalbed methane in place, or coalbed methane rights, to the extent that the owner is not an operator as defined in subsection (20) of this section;

(28) "Stimulate" means any action taken to increase the flow of coalbed methane, or the inherent productivity of a coalbed methane well, including but not limited to fracturing, shooting, acidizing, or waterflooding, but excluding cleaning out, bailing, or workover operations;

(29) "Surface owner" means the person in whose name the surface of the land is assessed for purposes of taxes imposed according to the property valuation administrator;

(30) "Unit" means any tract or tracts which the department has determined are underlaid by a pool or pools of coalbed methane and are not drilling units as defined in subsection (10) of this section;

(31) "Unitization" means the act of combining separately owned tracts or separate interests therein into a unit constituting all or some portion of a coalbed that produces or is capable of producing coalbed methane and the joint operation of that unit;

(32) "Unit operator" means the party designated in a pooling order to develop a unit by the drilling of one (1) or more coalbed methane wells;

(33) "Vent hole" means a borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened, which is used for the purpose of releasing or venting coalbed methane to the atmosphere and not for the purpose of capturing or producing coalbed methane for sale or use;

(34) "Venting" means the act of releasing coalbed methane to the atmosphere;

(35) "Well" means any borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened for the purpose of capturing or producing coalbed methane for sale or use; and

(36) "Workable coalbed" means:

(a) Any coalbed twenty-four (24) inches or more in thickness;

(b) Any coalbed actually being operated commercially;

(c) Any coalbed that the department decides can be operated commercially, and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

(d) Any coalbed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through or into it.

Section 45. KRS 349.015 is amended to read as follows:

(1) Before a permit may be issued by the department to drill a coalbed methane well on any tract known to be underlaid with coal-bearing strata, the well operator shall provide to the department a plat prepared by a licensed, professional land surveyor and a licensed, professional engineer showing:

(a) The county in which the coalbed methane well drill site is located;

(b) The name of the surface owner of the drill site tract, the acreage of the drill site tract, the names of the surface owners of adjacent tracts, the names of all coal interest holders from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located, and the names of all oil and gas owners from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located;

(c) The proposed or actual location of the coalbed methane well determined by bearing and distance, relative to two (2) permanent points or monuments that appear on the applicable United States Geological Survey seven and one-half (7-1/2) minute topographic quadrangle map;

(d) The location of any other existing or permitted coalbed methane well or any oil or gas well located within one thousand five hundred (1,500) feet of the well;

(e) The outside boundary of the mineral tract from which the coalbed methane is to be produced if within seven hundred fifty (750) feet of the well; and

(f) The number to be given the coalbed methane well, the earliest date for commencement of drilling, the earliest date for commencement of any stimulation of the coalbed methane well, and if horizontal drilling of a coalbed methane well is proposed, the vertical and horizontal alignment and extent of the coalbed methane well.

(2) If the location of any coalbed methane well proposed to be drilled, deepened, or reopened is known to be underlaid by a coal bearing stratum which is not within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the ***division***[~~DSMRE~~], simultaneously with the filing of an application for a permit, the applicant shall send, by registered or certified mail, a copy of the required plat to the record coal owner or owners and record coal lessee or lessees from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located.

(3) If the coal bearing stratum is within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the ***division***[~~DSMRE~~], a copy of the required plat shall also be sent by the applicant, by registered or certified mail, to each mine licensee and mine permittee operating any stratum as designated on the current license issued by the department and at the address stated thereon.

(4) A copy of the required plat shall also be sent, by registered or certified mail, simultaneously with the filing of an application for a permit, to the surface owner of the drill site tract and surface owners of adjoining tracts.

(5) If the address of any record owner is unknown to the applicant and cannot upon diligent inquiry within the county be ascertained, or if there are more than five (5) record owners, then the applicant shall file with the department an affidavit that either condition exists, and the department may prescribe some different method of notifying the record owner in lieu of sending a copy of the plat and notice of application as required by this section.

(6) The plat shall be filed and become a permanent record, subject to inspection at any time by any interested person. Any executive officer, process agent, or chief engineer of the mine licensee or mine permittee may be considered a mine licensee or mine permittee for the purposes of mailing the required copy of the plat.

(7) If a coalbed methane well is proposed to be drilled, deepened, converted, or reopened by an applicant who is not the owner or lessee of all of the oil and gas interests, the applicant shall, simultaneously with the filing of the application for a permit, send by registered or certified mail a copy of the required plat to the record oil and gas lessees of, to the record oil and gas lessors of, and to the operator of all oil and gas wells producing from, all formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the well is proposed to be located.

(8) The operator shall promptly upon completion of either a vertically drilled coalbed methane well located ten (10) feet or more from the location reflected on the plat required with the permit application or a horizontally drilled coalbed methane well file with the department an as-drilled plat prepared by a licensed professional land surveyor and a licensed professional engineer reflecting the actual coalbed methane well location. If the operator has completed a horizontally drilled coalbed methane well, the as-drilled plat shall show its alignment and extent. The plat shall become a permanent record subject to inspection at any time by any interested persons.

(9) Each plat, or exhibit attached thereto, shall have the following information on a form supplied by the department:

(a) Notice of the application for a coalbed methane well and the address where a copy of the application may be obtained;

(b) A statement that the recipient has twenty (20) days within which to file an objection to the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed; and

(c) A statement that the applicant has met and conferred with, or offered to meet and confer with, each coal interest holder concerning the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed.

Section 46. KRS 349.020 is amended to read as follows:

(1) If the drilling of a coalbed methane well could adversely affect the present or future use or operation of a workable coalbed, any coal interest holder may object to a proposed coalbed methane well, the well's location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed. Any coal interest holder, within twenty (20) days of receipt of the plat by him or her and by the department, may file specific objections in writing with the department. The filed objections shall provide sufficient detail for the applicant to identify the nature and substance of the objection. The department shall notify the applicant of the objections and fix a time and place for a hearing before the review board to be conducted in accordance with KRS Chapter 13B and this chapter.

(2) If any coal interest holder, notified pursuant to KRS 349.015, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him or her and by the department. The person also shall request that a pooling order be entered pursuant to KRS 349.080(1).

(3) If the record oil and gas lessor, lessee, or well operator notified pursuant to KRS 349.015, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him. The person shall request that a pooling order be entered pursuant to KRS 349.080(1).

(4) If no objections are filed within the twenty (20) day period, the department shall immediately issue a drilling permit to the well operator approving the location of the well and authorizing the well operator to proceed to drill at that location, provided all other preconditions to issuance of a permit, as contained in this chapter, have been met.

(5) Upon receipt of an application to drill a coalbed methane well, the department shall provide a copy of the required plat and permit application to ***the division***[~~DSMRE~~]. Within fifteen (15) days of receipt by ***the division,***[~~DSMRE~~] notification shall be sent to the department by ***the division***[~~DSMRE~~] as to whether the proposed coalbed methane well will be located within the boundaries of any coal mine for which a permit has been issued or has been applied for pursuant to KRS Chapter 350. If the proposed coalbed methane well is to penetrate a workable coalbed that is within the area of an existing permit for an underground mine issued by ***the division***[~~DSMRE~~], or the proposed permitted area of a pending application or permit modification for an underground mine before ***the division***[~~DSMRE~~], the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to stimulate, complete, or horizontally drill the coalbed methane well in the workable coalbed that is within the area of an existing permit for an underground mine issued by ***the division***[~~DSMRE~~] or within the proposed permitted area of a pending application or permit modification for an underground mine before ***the division***[~~DSMRE~~]. If the proposed coalbed methane well is to be located within a surface area permitted, or proposed in a pending application or permit modification to be issued by ***the division***[~~DSMRE~~], the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to drill the coalbed methane well. In the absence of the written authorization of the mine permittee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well if:

(a) Authorization has been denied by the mine permittee; and

(b) The proposed location and area to be disturbed by the proposed coalbed methane well has achieved either a partial bond release status or the bond for the area has been forfeited.

Section 47. KRS 349.040 is amended to read as follows:

(1) It is unlawful for any person to drill, commence, operate, deepen, convert, or stimulate any coalbed methane well, to conduct any horizontal drilling of a coalbed methane well or to convert any existing oil or natural gas well to a coalbed methane well, without first securing from the department a permit pursuant to this chapter. Before any well, borehole, or facility initially used for a coal mining related purpose, such as a vent hole, is converted for the purpose of recovering coalbed methane for sale or use, the operator shall obtain a permit and comply with the provisions of this chapter prior to the time that the well, borehole, or facility is converted or used for the purpose of recovering coalbed methane for sale or use. It is unlawful for any person to drill, deepen, convert, or reopen a coalbed methane well for the production of oil or natural gas or for the injection of water, gas, or other fluids into any oil or natural gas producing formation until the person has obtained a permit from the department for a petroleum or natural gas well pursuant to KRS 353.570. However, no additional permit fee shall be required if the original permit for the coalbed methane well has not expired.

(2) Every permit application filed under this section shall be verified and shall contain the following:

(a) A statement that the applicant claims to have a valid real property interest in, or the current legal right to produce coalbed methane from a person claiming a valid real property interest in, the coalbed methane. The statement shall identify with specificity the nature of the real property interest and the document or instrument evidencing that interest or right, including recording information of any recorded document or instrument;

(b) The names and addresses of the coalbed methane well operator and every person or entity whom the applicant must notify under any section of this chapter;

(c) The name and address of each coal interest holder of any workable coalbed which is to be penetrated by a proposed coalbed methane well or within seven hundred fifty (750) horizontal feet or fifty (50) vertical feet of any portion of the proposed coalbed methane well;

(d) The name and addresses of each record oil and gas lessee of, the record oil and gas lessor of, and the operator of all oil and gas formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the coalbed methane well is proposed to be located;

(e) The coalbed methane well name or such other identification as the department may require;

(f) The approximate depth to which the coalbed methane well is to be drilled, deepened, or converted, the coal seams including the depth and thickness of each seam that will be completed for production, and any other coal seams which will be penetrated by the coalbed methane well;

(g) A description of any means to be used to stimulate any of the workable coalbeds penetrated by the coalbed methane well;

(h) If the proposed coalbed methane well will require casing or tubing, the entire casing program for the coalbed methane well, including the size of each string of pipe, the starting point and depth to which each string is to be set, and the extent to which each string is to be cemented;

(i) If the proposed operation is to convert an existing petroleum or natural gas well, as defined in KRS 353.010(13), or to convert a vertical borehole or facility initially used for a coal mining related purpose, such as a vent hole, to a coalbed methane well, all information required by this section, all formations from which production is anticipated, and any plans to plug any portion of the well;

(j) Except for a vent hole proposed to be converted to a coalbed methane well, if the proposed coalbed methane well will be completed in some but not all coal seams for production, a plan and design for the coalbed methane well which will protect all workable coalbeds which will be penetrated by the coalbed methane well;

(k) If the proposed operations will include horizontal drilling of a coalbed methane well, a description of the operations, including both the vertical and horizontal alignment and extent of the coalbed methane well from the surface to total depth; and

(l) Other information as the department may require consistent with this chapter.

(3) Each application for a coalbed methane well permit shall be accompanied by the following:

(a) A permit application fee of three hundred dollars ($300);

(b) A bond in an amount prescribed in KRS 349.120;

(c) A certificate that the applicant's notice requirements of KRS 349.015 have been satisfied. Certification may be by affidavit of personal service, or the return receipt card, or other postal receipt, for certified mailing;

(d) If the proposed coalbed methane well will be located within one-half (1/2) of a mile, measuring horizontally, of a water supply well being used for residential or domestic purposes, the applicant will submit the groundwater protection plan required under KRS 224.70-110 and applicable administrative regulations promulgated pursuant thereto for review by the department, or demonstrate to the department that a plan is not required; and

(e) Proof that the applicant has public liability insurance coverage in an amount not less than five hundred thousand dollars ($500,000) in aggregate and three hundred thousand dollars ($300,000) per occurrence for damages to persons and property caused by the applicant's operations or proof that the applicant has satisfied self-insurance requirements as provided by administrative regulations which shall be promulgated by the department.

(4) Prior to the department's issuance of a permit to drill a coalbed methane well, a copy of the written authorization from the mine licensee shall be filed with the application under the following circumstances:

(a) If the proposed coalbed methane well is to penetrate a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before the ***division***~~[DSMRE]~~ and if the applicant plans to stimulate, complete, or horizontally drill the coalbed methane well in a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before ***the division***~~[DSMRE]~~;

(b) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit, or the proposed permitted area of a permit pending before ***the division***~~[DSMRE]~~ for which no bond release has been obtained; or

(c) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit by ***the division***~~[DSMRE]~~ for which a partial bond release has been obtained.

If a coalbed methane well permit is issued for a well site located within the boundaries of any coal mine for which a permit has been issued or is pending pursuant to KRS Chapter 350, the permit shall include a provision specifically stating that the permitted coalbed methane well location is in an area for which a coal mine permit has been issued or is pending pursuant to KRS Chapter 350 and is subject to the mine-through rights set forth in KRS 349.030(1).

(5) If a partial bond release for the surface area on which the proposed coalbed methane well is located has been obtained from ***the division***[~~DSMRE~~] and the applicant is denied written authorization from the mine licensee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well. When requesting an appeal, the applicant shall submit a verified statement including the following:

(a) The applicant has met and conferred with or offered to meet and confer with the mine licensee concerning the authorization;

(b) The mine licensee has refused to provide written authorization to disturb the permitted area;

(c) The physical area to be disturbed by the proposed well location and the use of area, including ingress and egress thereto, qualifies as a commercial or industrial postmining land use entitling the mine licensee to a complete bond release for the area to be disturbed by the coalbed methane well operator in accordance with KRS Chapter 350; and

(d) The applicant has agreed to pay the reasonable and actual costs of the permit revision required by ***the division***[~~DSMRE~~] to affect the incremental bond release for the proposed area to be disturbed by the coalbed methane well operator, not to exceed five thousand dollars ($5,000).

(6) Prior to the issuance of a permit to drill a coalbed methane well, the applicant shall grant assignable subsidence waivers to any mine licensee if requested in an objection filed pursuant to KRS 349.060 and, if required, to allow present or future mining with planned subsidence under KRS Chapter 350. However, this subsection and any subsidence waivers shall in no way waive, affect, or impair the ability of the applicant or the applicant's successors or assigns to pursue any remedies for damages to persons, or to improved or tangible property, suffered or incurred as a result of any subsidence caused by the mine licensee or the mine licensee's successors or assigns. The mine licensee, its successors or assigns, shall be liable for any and all damages to persons or to improved or tangible property proximately caused by the mine licensee.

(7) If the mine licensee is mining in a coal seam that is not being produced by the coalbed methane well operator and has not exercised his or her mine-through rights, as set forth in KRS 349.030(1) or (2), in any coal mine before removing any coal or other material or driving any entry or passageway within five hundred (500) horizontal feet of the vertical segment of a coalbed methane well or within fifty (50) vertical feet of the horizontal segment of a coalbed methane well, the mine licensee shall forward simultaneously to the well operator and to the department, by certified mail, return receipt requested, or by registered mail, a copy of the maps and plans required by law to be filed and kept up to date. Maps or plans shall show the mine workings and projected mine workings within five hundred (500) horizontal feet of the coalbed methane well. However, the issuance of any coalbed methane well permit shall not preclude or prevent coal mining outside two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of a coalbed methane well or outside of the workable coalbed in which the horizontal segment of a coalbed methane well is located, unless specified by the department for reasons of mine or well safety. The mine licensee shall not mine within fifty (50) feet of the vertical segment of a coalbed methane well without the written authorization of the coalbed methane well operator. A mine licensee may file a request with the department to mine closer than two hundred (200) feet of the vertical segment of the coalbed methane well. The mine licensee shall forward simultaneously to the well operator and the department, by certified mail, return receipt requested, or by registered mail, a request to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, which shall be accompanied by the following:

(a) A copy of the maps and plans required by law to be filed and kept up to date, showing on the copy of the map or plan its mine plan workings and projected mine workings beneath the tract of land and within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well; and

(b) A statement that the applicant has met and conferred with, or offered to meet and confer with, the well operator concerning the mine licensee's plan to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well.

The well operator may, within twenty (20) days of receipt of the documents listed in paragraphs (a) and (b) of this subsection, file specific objections in writing with the department. When objections are filed, the department shall provide a copy of the objections to the mine licensee and fix a time and place for an informal hearing. The hearing shall be held not more than ten (10) days from the end of the twenty (20) day period. At the hearing, the mine licensee and the well operator, in person or by representative, shall consider the objections and seek agreement on the character and the extent of operations to be conducted within less than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well. If no agreement can be reached, the department, after administrative hearing conducted in accordance with KRS Chapter 13B, shall make a decision defining what coal, if any, is necessary to be left for the safe protection, use, and operation of the well. The department's decision shall be subject to appeal by either party as provided in this chapter. The department shall keep a complete record of all hearings. The mine licensee shall, every six (6) months, while mining within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, file up-to-date maps and plans required by this section, or file new maps and plans complete to date.

(8) The department may deny the issuance of a permit if it determines that the applicant has a documented pattern or practice

of substantial violations of the provisions of this chapter and has failed to abate or seek review of the violations. If the department finds that a substantial violation has occurred with respect to existing operations and that the operator has failed to abate or seek review of the violation in the time prescribed, the department may suspend the permit. After a suspension, the operator shall forthwith cease all work being conducted under the permit until the department reinstates the permit. The department shall make a written finding of its determination and may enforce the determination in Circuit Court pursuant to KRS 349.145.

Section 48. KRS 349.055 is amended to read as follows:

(1) The Coalbed Methane Well Review Board is hereby established. The review board shall be composed of five (5) members and shall have the powers and duties specified under this chapter.

(2) The review board shall consist of the commissioner of the Department ***for***~~[of]~~ Natural Resources or his or her designee within the department, the ***director of the Division of Mine Reclamation and Enforcement***~~[commissioner of the Department of Mines and Minerals]~~, and the director of the Division of Oil and Gas ***Conservation*** within the Department ***for Natural Resources***~~[of Mines and Minerals]~~, a representative of the oil and gas industry, and a representative of the coal industry. The representatives from the oil and gas industry and the coal industry shall be appointed by the Governor for terms of four (4) years subject to confirmation by the Senate.

(3) The review board shall be, for administrative purposes only, attached to the ***Environmental and Public Protection Cabinet, Department for Natural Resources***~~[Division of Oil and Gas within the Department of Mines and Minerals]~~.

Section 49. KRS 350.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. Excavation for the purpose of obtaining coal includes extraction of coal from refuse piles. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two hundred fifty (250) tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are

conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;

(9) "Person" means any individual, partnership, corporation, association, society, joint stock company, firm, company, or other business organization and shall also include any agency, unit, or instrumentality of federal, state, or local government including any publicly-owned utility or publicly-owned corporation of federal, state, or local government;

(10) "Cabinet" means the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet;

(11) "Secretary" means the secretary of the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(16) "Certification" by a qualified registered professional engineer, as required by this chapter and administrative regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and administrative regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land.

(18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010(20).

(19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

(20) "Permit applicant" or "applicant" means a person applying for a permit.

(21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.

(22) "Unanticipated event or condition" as used in KRS 350.085(7) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(23) "Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under KRS 350.560(1) or (2).

(24) "Coal combustion by-products" means fly ash, bottom ash, scrubber sludge, and waste from fluidized bed combustion, produced by the combustion of coal. Coal combustion by-products do not include boiler slag, or residues of refuse derived fuels, such as municipal solid waste, tires, and solvents.

Section 50. KRS 350.028 is amended to read as follows:

The ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet shall have and exercise the following authority and powers:

(1) To adopt administrative regulations after a hearing pertaining to surface coal mining operations including strip mining and the surface effects of underground mining to accomplish the purposes of this chapter;

(2) To conduct investigations and hearings under provisions of this chapter or regulations adopted pursuant thereto;

(3) To issue, after an opportunity for a hearing, suspension orders or show cause orders requiring an operator, permittee, or person to adopt remedial measures that are necessary to comply with this chapter and administrative regulations adopted pursuant thereto. Failure to attend a hearing shall be excused for good cause shown;

(4) To issue, after an opportunity for a hearing, a final order imposing civil penalties for violations of this chapter or directing the ***Department for Natural Resources***[~~Kentucky Bureau of Surface Mining Reclamation and Enforcement~~] to revoke a permit, when the requirements set forth by the notice of noncompliance, order of cessation, or an order of the cabinet requiring remedial measures have not been complied with according to the terms therein. When the secretary or his authorized representatives determines that a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed, and if the secretary or his authorized representatives also find that the violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions or that the violations are willfully caused by the permittee, the secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked and shall provide an opportunity for a hearing. Failure to attend a hearing shall be excused for good cause shown; and

(5) To adopt administrative regulations to allow the state to administer and enforce the initial and permanent regulatory programs of Public Law 95-87, "Surface Mining Control and Reclamation Act of 1977." Administrative regulations shall be no more stringent than required by that law. Nothing in this chapter shall be construed as superseding, amending, modifying, or repealing any of the acts listed in Section 702(a) of Public Law 95-87, or any administrative regulation promulgated thereunder.

Section 51. KRS 350.0301 is amended to read as follows:

(1) Any person who considers himself aggrieved by any determination made by the cabinet under this chapter may file, in accordance with administrative regulations promulgated by the cabinet under the provisions of this chapter, a petition alleging that the determination is contrary to law or fact and is injurious to him, the grounds and reasons therefor, and demand a hearing. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of the notice unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the determination complained of, or could reasonably have had notice. However, the petitioner shall have the opportunity to contest the validity of an underlying notice of noncompliance in a timely-filed demand for hearing to contest the validity of a cessation order issued for a failure to abate the violation contained in the notice of noncompliance.

(2) All hearings, other than conferences, under this chapter shall be held before a hearing officer, duly qualified to practice law in the Commonwealth of Kentucky, who may be a full-time employee of the cabinet, serve by contract, or be paid on a per diem basis in the discretion of the cabinet. After the conclusion of the hearing, the hearing officer shall within thirty (30) days make to the secretary a report and recommended order which shall contain a finding of fact and a conclusion of law. If the secretary finds upon written request of the hearing officer that additional time is needed, the secretary may grant an extension. The hearing officer shall serve a copy of his report and recommended order upon all parties of record and their attorney of record to the proceeding, and they shall be granted the right to file exceptions thereto within fourteen (14) days of service. Any party may submit a written response to exceptions within twenty-one (21) days of service of the report and recommended order. Exceptions and responses not timely filed shall be noted and made a part of the record but shall not be considered by the secretary in making a final order. The secretary shall consider the report, exceptions, and recommended order and decide the case. The decision shall be served by mail upon all parties and their attorney of record and shall be a final order of the cabinet.

(3) Any party to a hearing under this subsection may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of these actions. The record of the hearing shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original.

(4) All hearings conducted pursuant to this chapter shall be open to the public.

(5) The cabinet shall promulgate administrative regulations, pursuant to the provisions set forth in this chapter, establishing formal and informal hearing procedures by which any hearing shall, upon the written request of the operator, permittee, or person, be held in the county or regional office where the surface coal mining operation is located, before an impartial hearing officer who is independent of any prosecutorial functions of the cabinet. The administrative regulations shall provide for the conduct of hearings and investigation of any matter relating to the regulation of surface coal mining and reclamation operations; provide for the assessment and payment of civil penalties, including the placement of proposed civil penalty assessments into an escrow account prior to a formal hearing on the amount of the assessment; and provide for a waiver of the placement of the proposed civil penalties into escrow for those individuals who demonstrate with substantial evidence an inability to pay the proposed civil penalties into escrow. The procedures developed pursuant to this subsection shall provide that the hearings be held in the most expeditious manner possible within the time constraints established under this chapter. No person who presided at a prior hearing shall either preside at a subsequent hearing or participate in any further decision or subsequent administrative appeal in the same matter.

(6) The cabinet may promulgate administrative regulations pursuant to the provisions set forth in this chapter establishing

procedures for the holding of administrative conferences needed to implement the provisions of this chapter.

(7) The secretary may designate a deputy to sign any or all final orders of the cabinet, whether the orders are the result of hearing or agreement.

Section 52. KRS 350.035 is amended to read as follows:

(1) There is established within the cabinet a Department for ***Natural Resources***[~~Surface Mining Reclamation and Enforcement~~] which shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The secretary may divide the department into a ***Division of Mine Reclamation and Enforcement,*** Division of ***Mine*** Permits, ***Division of Abandoned Mine Lands,*** Division of Standards and Specifications, Division of Operations and Enforcement, an Office of Special Investigation, and any other offices or divisions as the secretary may deem necessary to perform the functions, powers, and duties of the department, subject to the provisions of KRS Chapter 12.

(2) The secretary shall have the power to appoint not more than fifteen (15) special investigations officers who shall be peace officers except for purposes of KRS 527.020. Such peace officers shall be responsible for enforcement of the provisions of this chapter relating to criminal offenses.

Section 53. KRS 350.260 is amended to read as follows:

There is hereby created a Small Coal Operators Advisory Council which shall report directly to the secretary of the Governor's Executive Cabinet. The council shall advise on matters affecting coal production and utilization including coal market development, transportation, and storage problems. The council shall have the function of coordinating and improving the working relationships between those state agencies administering programs which regulate, serve, or aid small coal mine operators. The council shall consist of fifteen (15) members. Ten (10) of those members shall be appointed by the Governor. Seven (7) of the ten (10) members shall be full-time operators producing three hundred thousand (300,000) or fewer tons of coal per year. Three (3) of the ten (10) appointees shall be with backgrounds in one (1) or more of the following areas: transportation, marketing, mining education, and mining engineering. The secretary of the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet, the commissioners of the ***Department of*** Agriculture and ***the Department for Natural Resources***[~~Mines and Minerals Departments~~], and the special assistant to the Governor for coal and energy policy shall be ex officio members. Each individual appointment shall be for a four (4) year term which shall begin on July 15, 1984. Members may serve successive terms if reappointed. Vacancies shall be filled in a manner consistent with the provisions for initial appointments. At the first meeting held on or after July 1 of each year, a chairman shall be elected by and from the membership. The council shall meet at least quarterly during each year and may meet more often at the call of the chairman. The council shall be attached to the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet for administrative purposes. Council members shall be eligible for reimbursement by the cabinet for actual expenses directly related to serving on the council.

Section 54. KRS 350.425 is amended to read as follows:

The permittee, operator, or other person shall design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to subsection (f) of Section 515 of Public Law 95-87, "Surface Mining Control and Reclamation Act of 1977," all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments. The ***Environmental and Public Protection Cabinet***[~~Kentucky Department of Surface Mining~~] through this chapter shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream, which structures or obstructions are permitted under this chapter.

Section 55. KRS 350.430 is amended to read as follows:

The permittee or operator shall:

(1) Provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident living within one-half (1/2) mile of the proposed blasting site and by providing daily notice to resident/occupiers in the areas prior to any blasting;

(2) Maintain for a period of at least three (3) years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

(3) Limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface water outside the permit area;

(4) Require that all blasting operations be conducted by trained and competent persons as certified by the Department ***for Natural Resources***[~~of Mines and Minerals~~]; and

(5) Provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half (1/2) mile of any portion of the permitted area the applicant or permittee shall conduct a preblasting survey of the structures and submit the survey to the cabinet and a copy to the resident or owner making the request. The area of the survey shall be decided by the

cabinet and shall include such provisions as the cabinet shall promulgate.[~~ The cabinet and the Department of Mines and Minerals are authorized to enter into agreements whereby the cabinet or the Department of Mines and Minerals administers part or all of this section.~~]

(6) Penalties for violations of this section are those set forth in KRS 350.990.

Section 56. KRS 351.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Approved" means that a device, apparatus, equipment, or machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(c) "Board" means the Mining Board created in KRS 351.105;

(d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(e) "Commission" means the Mine Safety Review Commission created by KRS 351.1041;

(f) "Commissioner" means commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(g) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(h) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(i) "Excavations and workings" means the excavated portions of a mine;

(j) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(k) "Gassy mine." All mines shall be classified as gassy or gaseous;

(l) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(m) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(n) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units, shall be considered a separate mine;

(o) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;

(p) "Open-pit mine" shall include open excavations and open-cut workings, including but not limited to auger operations and highwall mining systems for the extraction of coal;

(q) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(r) "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;

(s) "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;

(t) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(u) "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(v) "Slope" means an inclined opening used for the same purpose as a shaft;

(w) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;[~~ and~~]

(x) "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein***;***

(y) "Office" means the Office of Mine Safety and Licensing; and

(z) "Executive director" means the executive director of the Office of Mine Safety and Licensing.

(2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.

(3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 57. KRS 351.020 is amended to read as follows:

(1) The Department ***for Natural Resources***[~~of Mines and Minerals~~] shall be headed by the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~].

(2) The department shall administer all laws of the Commonwealth relating to mines.

Section 58. KRS 351.060 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] of the ***Office of Mine Safety and Licensing***[~~Department of Mines and Minerals~~] shall be a citizen of Kentucky and shall be thoroughly familiar with all methods of safety pertaining to the operation of mines.

(2) The ***executive director***[~~commissioner~~] shall have a practical knowledge of:

(a) The different systems of working and ventilating coal mines;

(b) The nature, chemistry, and properties of noxious, poisonous, and explosive gases, the dangers due to these gases, and the prevention of these dangers;

(c) The dangers incident to blasting and the prevention of these dangers;

(d) The methods for the management and extinguishment of mine fires;

(e) The methods for rescue and relief work in mine disasters;

(f) The application of electricity in mining operations;

(g) The application of mechanical loading in mining operations;

(h) The equipment and explosives manufactured for use in coal mines;

(i) The methods used in locating oil and gas wells when drilled through any coal seam;

(j) The proper manner of drilling and plugging oil and gas wells;

(k) Mining engineering; and

(l) The methods for the prevention of explosions in mines due to gas or dust.

(3) The ***executive director***[~~commissioner~~] shall be capable of efficiently reporting on any proposed development in mining operations or the possibility of operating any coal or clay seam.

(4) The ***executive director***[~~commissioner~~] shall hold a mine inspector's certificate.

Section 59. KRS 351.070 is amended to read as follows:

(1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department. ***There is created within the Department for Natural Resources an Office of Mine Safety and Licensing.***

(2) ***The secretary***[~~He~~] shall appoint ***an executive director to the Office of Mine Safety and Licensing in accordance with subsection (2) of Section 21 of this Act***[~~a deputy commissioner of the Department of Mines and Minerals~~] and prescribe his powers and duties.

(3) ***The commissioner***[~~He~~] may, whenever necessary, divide the coal fields of the state into as many inspection districts as necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.

(4) ***The commissioner***[~~He~~] may, whenever he ***or she*** deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one (1) district to another.

(5) ***The commissioner***[~~He~~] shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.

(6) ***The commissioner***[~~He~~] shall collect statistics relating to coal mining in the state and make an annual report of the statistics.

(7) ***The commissioner***[~~He~~] shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.

(8) ***The commissioner***[~~He~~] shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.

(9) ***The commissioner***[~~He~~] shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.

(10) ***The commissioner***[~~He~~] shall exercise general supervision over the dissemination of information among officials and

employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.

(11) ***The commissioner***[~~He~~] may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.

(12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.

(13) The ***secretary of the Environmental and Public Protection Cabinet***[~~commissioner~~] shall have the power and authority to promulgate, amend, or rescind any administrative regulations he ***or she*** deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the commissioner only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.

(14) The commissioner shall ascertain the cause or causes of any coal mining fatality and, within sixty (60) days of completion of the investigation, shall report his findings and recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. The recommendations may include, without being limited to, the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality.

Section 60. KRS 351.242 is amended to read as follows:

(1) There is hereby created in the department ***a mine safety analysis program***[~~the Division of Mine Safety Analysis~~].

(2) Persons employed in the ***department***[~~division~~] as underground or surface mine safety analysts shall satisfy the applicable requirements established in KRS 351.090.

(3) The primary responsibility of the safety analyst is to prevent mine accidents and fatalities by observing and evaluating the work habits of persons involved in the direct production of coal and to contact, advise, and assist these persons in correcting their unsafe or potentially hazardous actions.

(4) The safety analyst shall have the same powers as a mine inspector of the department, but these powers shall be considered secondary to the primary responsibilities provided in subsection (3) of this section. Each time a safety analyst enters a mine to perform his primary responsibility, he shall confer with the foreman as to the conditions of the mine and the work practices of the employees.

(5) The safety analyst shall keep mine management, representatives of the employees, and the commissioner informed about all hazardous conditions and all matters which may improve the safety of mines.

(6) The ***office***[~~division~~] shall assist the ***department***[~~Division of Miner Training, Education, and Certification~~] in assessing the effectiveness of miner training programs.

(7) The commissioner shall at his ***or her*** discretion assign safety analysts to all mines in the state taking into consideration such factors as the history of accidents at the mine, experience of the work force, physical condition of the mine, and size of the mine.

(8) The commissioner may coordinate the assignment of safety analysts with the appropriate federal authorities to minimize duplication of accident prevention efforts.

(9) The commissioner shall report annually to the General Assembly and to the Governor on the effectiveness of the safety analysts in improving mine safety.

Section 61. KRS 351.310 is amended to read as follows:

As used in KRS 351.315 to 351.375 unless the context clearly indicates otherwise:

(1) "Explosives" means any chemical compound or other substance or mechanical system intended for the purpose of producing an explosion, or that contains oxidizing and combustible units or other ingredients in such proportions or quantities that ignition by detonation may produce an explosion, capable of causing injury to persons or damage to property;

(2) "Blasting operation" means the use of explosives in the surface blasting of stone, rock, ore or any other natural formation, or in any construction or demolition work, but shall not include its use in agricultural operations;

(3) "Blaster" means a person licensed to fire or detonate explosives in blasting operations;

(4) "Charge" means a quantity of explosive or equivalent that is to be detonated within a period of five (5) seconds;

(5) "Subcharge" means a quantity of explosive or equivalent that is to be detonated within a period of less than eight (8) milliseconds;

(6) "Detonation time" means the time at which the detonation is initiated;

(7) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(8) "Commissioner" means the commissioner of ***the Department for Natural Resources***[~~mines and minerals~~].

Section 62. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(e) "Board" means the Mining Board created in KRS 351.105;

(f) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(g) "Commissioner" means commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(h) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~];

(i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(j) "Excavations and workings" means the excavated portions of a mine;

(k) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(l) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(m) "Gassy mine." All underground mines shall be classified as gassy or gaseous;

(n) "High voltage" means any voltage of one thousand (1,000) volts or more;

(o) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;

(p) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(q) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(r) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(s) "Low voltage" means up to and including six hundred sixty (660) volts;

(t) "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;

(u) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;

(v) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;

(w) "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;

(x) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(y) "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;

(z) "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;

(aa) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(ab) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(ac) "Slope" means an inclined opening used for the same purpose as a shaft;

(ad) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(ae) "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(af) "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;

(ag) "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;

(ah) "Working place" means the area of a coal mine inby the last open crosscut;

(ai) "Working section" means all areas of a coal mine from the loading point to and including the working faces; and

(aj) "Workmanlike manner" means consistent with established practices and methods utilized in the coal industry.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010 and shall not apply to electrical facilities owned, operated, or otherwise controlled by a retail electric supplier or generation and transmission cooperative as defined in KRS 278.010 or organized under KRS Chapter 279 for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established easement rights on private property and that are covered by the National Electric Safety Code (NESC) or other applicable safety codes, or other authorities having jurisdiction and shall not apply to installations under the exclusive control of utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established rights on private property.

Section 63. KRS 353.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Barrel" or "barrel of oil" means forty-two (42) standard United States liquid measure gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit.

(2) "Casing" means a string or strings of pipe commonly placed in wells drilled for natural gas and petroleum.

(3) "Cement" means hydraulic cement properly mixed with water only.

(4) "Coal operator" means any person who proposes to or does operate a coal mine.

(5) "Cubic feet of gas" means the volume of gas contained in one (1) cubic foot of space at a standard pressure base of fourteen and seventy-three hundredths (14.73) pounds per square inch and a temperature base of sixty (60) degrees Fahrenheit.

(6) "Department" means the Department ***for Natural Resources***~~[of Mines and Minerals]~~.

(7) "Gas" means natural gas.

(8) "Gas well" means any well which:

(a) Produces natural gas not associated or blended with crude petroleum oil any time during production; or

(b) Produces more than ten thousand (10,000) cubic feet of natural gas to each barrel of crude petroleum oil from the same producing horizon.

(9) "Oil" means petroleum.

(10) "Oil well" means any well which produces one (1) barrel or more of oil to each ten thousand (10,000) cubic feet of natural gas.

(11) "Plat" means a map, drawing, or print showing the location of a well.

(12) "Unit" means any tract or tracts which the department has determined is underlaid by a pool or pools of oil and associated gas, and is not a "drilling unit" as defined in KRS 353.510(19).

(13) "Well" means a borehole drilled or proposed to be drilled for the purpose of producing natural gas or petroleum, or one through which natural gas or petroleum is being produced.

(14) "Well operator" means any person who proposes to or does locate, drill, operate, or abandon any well.

(15) "Workable bed" means:

(a) A coal bed actually being operated commercially,

(b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years, or

(c) Any coal bed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through it.

Section 64. KRS 353.510 is amended to read as follows:

As used in KRS 353.500 to 353.720, unless the context otherwise requires:

(1) "Department" means the Department ***for Natural Resources***[~~of Mines and Minerals~~] as defined in KRS 351.010;

(2) "Commissioner" means the commissioner of the Department ***for Natural Resources***[~~of Mines and Minerals~~] as defined in KRS 351.010;

(3) "Director" means the director of ***the Division of*** Oil and Gas Conservation as provided in KRS 353.530;

(4) "Commission" means the Kentucky Oil and Gas Conservation Commission as provided in KRS 353.565;

(5) "Person" means any natural person, corporation, association, partnership, receiver, governmental agency subject to KRS 353.500 to 353.720, trustee, so-called common-law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(6) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof;

(7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

(8) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined in subsection (7) of this section as oil;

(9) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each productive zone of a general structure which is completely separated from any other zone in the structure, or which for the purpose of KRS 353.500 to 353.720 may be so declared by the department, is covered by the word "pool" as used herein;

(10) "Field" means the general area which is underlaid or appears to be underlaid by at least one (1) pool; and "field" includes the underground reservoir containing oil or gas or both. The words "field" and "pool" mean the same thing when only one (1) underground reservoir is involved; however, "field," unlike "pool," may relate to two (2) or more pools;

(11) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts;

(12) "Abandoned," when used in connection with a well or hole, means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of oil or gas or for the injection or disposal of fluid therein;

(13) "Workable bed" means:

  (a) A coal bed actually being operated commercially;

  (b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

  (c) A coal bed which, from outcrop indications or other definite evidence, proves to the satisfaction of the commissioner to be workable, and which, when operated, will require protection if wells are drilled through it;

(14) "Well" means a borehole drilled, shaft driven, or hole dug or such proposed or otherwise used for the purpose of producing natural gas or petroleum, or one through which natural gas or petroleum is being produced, or for the purpose of injecting any water, gas, or other fluid therein or one into which any water, gas, or other fluid is being injected;

(15) "Shallow well" means any well drilled and completed at a depth less than four thousand (4,000) feet except, in the case of any well drilled and completed east of longitude line 84 degrees 30'; shallow well means any well drilled and completed at a depth less than four thousand (4,000) feet or above the base of the lowest member of the Devonian Brown Shale, whichever is the deeper in depth;

(16) "Deep well" means any well drilled and completed below the depth herein provided for a shallow well;

(17) "Operator" means any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as "operator" to the extent of seven-eighths (7/8) of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one-eighth (1/8) interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the right to develop, operate, and produce the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool;

(18) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that such owner is not an operator as defined in subsection (17) of this section;

(19) "Drilling unit" generally means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable oil or gas in such area. Where the regulatory authority has provided rules for

the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, such area shall be a drilling unit;

(20) "Underground source of drinking water" means those subsurface waters identified as such in regulations promulgated by the department which shall be consistent with the definition of underground source of drinking water in regulations promulgated by the Environmental Protection Agency pursuant to the Safe Drinking Water Act, 42 U.S.C. secs. 300(f) et seq.;

(21) "Underground injection" means the subsurface emplacement of fluids by well injection but does not include the underground injection of natural gas for purposes of storage;

(22) "Endangerment of underground sources of drinking water" means underground injection which may result in the presence in underground water, which supplies or can reasonably be expected to supply any public water system, of any contaminant and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons;

(23) "Class II well" means wells which inject fluids:

(a) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

(b) For enhanced recovery of oil or natural gas; and

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure;

(24) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

Section 65. KRS 353.530 is amended to read as follows:

(1) The Governor shall appoint, as director of ***the Division of*** Oil and Gas Conservation in the Department ***for Natural Resources***[~~of Mines and Minerals~~], a person who has, at the time of his appointment, at least five (5) years' experience in the exploration for or the production of oil or gas.

(2) It shall be his duty to administer the provisions of KRS 353.500 to 353.720 subject to the direction and supervision of the commissioner.

(3) Before taking office, the director shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate shall be filed in the office of the Secretary of State.

(4) No director shall, while holding office, acquire any financial interest, directly or indirectly, in any venture or activity for the exploration for or production of oil or gas in this Commonwealth.

Section 66. The following KRS sections are repealed:

224.10-030 Bodies attached for administrative purposes.

224.10-055 Powers and duties of Governor.

224.10-060 Prior energy regulations and actions in effect until modified.

351.051 Commissioner -- Appointment.

Section 67. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 68. Any portion of law to the contrary notwithstanding, the General Assembly hereby confirms the Governor's Executive Order 2004-731 dated July 9, 2004, relating to the Environmental and Public Protection Cabinet, to the extent not otherwise confirmed or superseded by this Act.

The Committee on Agriculture and Natural Resources reported **SB 57** with Committee Substitute with expression of opinion that same should pass. Read at length for the first time and placed in the Calendar.

SB 57 is as follows:

SB 57, AN ACT relating to eggs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.540 is amended to read as follows:

As used in KRS 260.540 to 260.650, unless the context otherwise requires:

(1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs;

(2) "Board" means the Egg Marketing Board;

(3) "Candle" means to determine the interior quality of a shell egg based on the use of a candling light as defined in the USDA

Handbook 75(7 CFR Part 56);

(4) "Case" means a container of thirty (30) dozen shell eggs as used in commercial practice in the United States. The term "half-case" shall mean a container of fifteen (15) dozen eggs. Case also means any other quantity packaging which is considered a wholesale pack;

(5) "Check" means an egg that has a broken shell or a crack in the shell, but whose membranes are intact and whose contents are not leaking;

(6) "Commissioner" means the Commissioner of Agriculture;

(7) "Consumer" means all persons purchasing eggs for consumption and not resale;

(8) "Department" means the Department of Agriculture;

(9) "Dealer" means a person, organization, or cooperative engaged in the business of buying eggs from producers or other persons, either on his own account or as an agent, and selling or transferring eggs by the case or other quantity to a wholesaler, processor, retailer, specialty egg processor, or other persons or consumers;

(10) "Dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material, or prominent stains covering more than one-fourth (1/4) of the shell surface;

(11) "Distributor" means any person who sells, offers, or otherwise exposes shell eggs or egg products to a wholesaler, retailer, or food service facility. Distributor also means any person or producer who distributes shell eggs or egg products to his or her own retail outlet, store, or food service facility;

(12)[~~(11)~~] "Egg product" means processed and convenience forms of eggs for home and commercial use, including hard-cooked, or specialty egg products and pasteurized liquid, pasteurized frozen, or pasteurized dried egg products;

(13)[~~(12)~~] "FDA" means the Federal Food and Drug Administration;

(14)[~~(13)~~] "Handler" means a dealer, packer, processor, wholesaler, ***distributor,*** or retailer;

(15)[~~(14)~~] "Inedible" means an egg that is unfit for human food in whole or in part, addled or moldy, containing black rot, white rot, blood ring, adherent yolks, or bloody whites, incubated beyond the blood ring stage, or consisting to any extent of filthy decomposed substance. This also includes any eggs unfit for human consumption due to causes other than those listed in this subsection;

(16)[~~(15)~~] "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell;

(17)[~~(16)~~] "Loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or contains a bloody white, large meat spots, a large quantity of blood, or other foreign material;

(18)[~~(17)~~] "Lot" means any given quantity of two (2) or more eggs of a named grade, billed on an invoice or inspected by the department;

(19)[~~(18)~~] "Packer" means any person who grades, sizes, candles, and packs eggs for purposes of sale;

(20)[~~(19)~~] "Person" means any individual, firm, partnership, corporation, company, association, or any other type of business entity that traffics in, handles, or sells eggs, and shall include any trustee, receiver, or similar representative;

(21)[~~(20)~~] "Producer" means any person who exercises control over the production of eggs and disposes of eggs from the output of his or her personally owned flock;

(22)[~~(21)~~] "Retailer" means any person selling or offering eggs for sale to consumers in this state;

(23)[~~(22)~~] "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade;

(24)[~~(23)~~] "Shell eggs" means the product of the domesticated hen and any other egg from the avian species offered for human consumption in its shell form;

(25)[~~(24)~~] "Specialty egg processor" means a person who operates a plant for the purpose of breaking eggs for freezing or drying or commercial food manufacturing, and includes a person distributing his or her products from out-of-state. A specialty egg processor may also be know as a breaker or breaking plant;

(26)[~~(25)~~] "Specialty egg products" means egg specialties processed for the food service industry including: wet-pack and dry-pack prepeeled hard-cooked eggs, either whole, wedged, sliced, chopped, or pickled; long rolls of hard-cooked eggs; frozen omelets; egg patties; quiche; quiche mix; frozen French toast; frozen scrambled egg mix in boilable pouches; frozen fried eggs; frozen precooked scrambled eggs; freeze-dried scrambled eggs; ultra-pasteurized liquid eggs; free-flowing frozen egg pellets; and specially coated shelf-stable hard-cooked eggs; or any other products using eggs;

(27)[~~(26)~~] "Wholesaler" means a handler who is engaged in the business of buying eggs from producers or other persons on the handler's own account and selling or transferring eggs to other dealers, wholesalers, processors, or retailers, or through other distribution channels;

(28) "Withdraw from sale order" means an order issued by an inspector or other authorized agent of the department, removing shell eggs or egg products from retail sale or distribution;

(29)[~~(27)~~] "Candled and Graded" means candled and graded under state and federal standards and regulations;

(30)[~~(28)~~] "Ungraded and Candled" means the general run of edible eggs as they come from the producer, not sized or graded, but candled; and

(31)[~~(29)~~] "USDA" means the United States Department of Agriculture.

Section 2. KRS 260.550 is amended to read as follows:

(1) No person shall buy, sell, trade, traffic, or process eggs in Kentucky without a license issued pursuant to the egg marketing law, with the following exceptions:

(a)[~~(1)~~] Hatcheries purchasing eggs to be used exclusively for hatching purposes;

(b)[~~(2)~~] Hotels, restaurants, and other eating places where all eggs purchased are served in the establishment;

(c)[~~(3)~~]Bakeries, confectioneries, and ice cream manufacturers who use eggs in a manufactured product;

(d)[~~(4)~~] Consumers buying eggs for their own consumption; or

(e)[~~(5)~~]Producers who sell only directly to consumers and do not exceed a sales limit of sixty (60) dozen eggs per calendar week.

(2) Any person engaged in the act of selling shell eggs or egg products without the required license shall have all shell eggs and egg products placed under a withdraw from sale order until the time when the required license is obtained.

Section 3. KRS 260.570 is amended to read as follows:

(1) There shall be an egg marketing board in the Department of Agriculture. The board shall act in an advisory capacity to the Commissioner in all matters pertaining to the administration of the egg marketing law.

(2) The board shall be composed of the Commissioner, chairman ex officio, and six (6) members appointed by the Governor from lists of names submitted by egg producing and marketing organizations within the Commonwealth approved by the Commissioner for the purpose of submitting such lists. Appointments shall be for three (3) years, except that in the case of the members first appointed, two (2) members shall be appointed for one (1) year, two (2) members for two (2) years, and two (2) members for three (3) years. All members must be residents of the Commonwealth and not more than three (3) shall be of the same political party.

(3) The board shall meet at least once each ***calendar year***[~~fiscal quarter~~] and at such other times as the ***Commissioner, acting*** chairman***, or a quorum of the board*** may deem necessary. The chairman shall serve without additional compensation, but the members shall receive reimbursement for their necessary traveling expenses and the sum of ***fifty dollars ($50)***[~~twenty-five dollars ($25)~~] per day for each day they attend board meetings, payable out of funds derived from administration of the egg marketing law.

Section 4. KRS 260.600 is amended to read as follows:

(1) Any person requiring a license may obtain an application by calling the Kentucky Department of Agriculture, Division of Regulation and Inspection. A license may be renewed when accompanied by a renewal application and the required fees. ***A license for the current year shall not be issued if there are past due license fees and penalties pending for previous years.*** With regard to shell egg dealers, wholesalers, and packers, and specialty egg processors, dealers, and wholesalers, all of the previous year's assessment fees shall be current before licenses shall be renewed. Any person selling eggs without the required license will be subject to having the eggs removed from sale until a license has been acquired.

(2) A license is required of each handler of eggs selling in the Commonwealth subject to the exceptions specified in KRS 260.550. The annual license fees are as follows, varying for dealers, ***distributors,*** wholesalers, ***producers,*** and packers, according to the average weekly volume of the month in which the licensee handled the most eggs during the preceding year:

(a) Retailers ***$20.00***[~~$ 5.00~~]

(b) Shell egg dealers, ***distributors,*** wholesalers, producers, and packers within Kentucky or out-of-state:

1-25 cases or 1-750 dozen	***$20.00***[~~$10.00~~]
26-50 cases or 751-1500 dozen	***$30.00***[~~$20.00~~]
Over 50 cases or over 1500 dozen	***$50.00***[~~$40.00~~]

(c) Specialty egg processors, dealers, and wholesalers within Kentucky or out-of-state .... $50.00.

(3) Any egg handler engaged in more than one (1) type of activity for which a license is provided shall pay that license fee which is the highest of the licenses prescribed for each type of activity in which he is engaged.

(4) All eggs bought or sold within the Commonwealth of Kentucky shall bear a two cent ($0.02) assessment fee for each fifteen (15) dozen shell egg lot or portion thereof. Pasteurized liquid and pasteurized frozen egg products shall be assessed a fee of one-half (1/2) cent ($0.005) per ten (10) pound lot. Dried, dehydrated, hard-cooked, or specialty egg products shall be assessed a fee of one cent ($0.01) per ten (10) pound lot. ***These assessment fees shall be assessed and paid one (1) time as agreed between responsible parties as the product moves through the distribution network.*** All reports and fees are due monthly and shall be received by the department prior to the fifteenth of the month following the month of activity,

unless there is an agreement with the department to report and pay these fees on a quarterly, semi-annual, or annual basis. In this event, the reports and fees shall be received prior to the fifteenth of the month following the period of activity.

(5) All licenses shall expire on April 1 of each year. Handlers having more than one (1) place of business shall hold a license for each location. Licenses shall not be transferred.

(6) Those that are exempt from licensing under KRS 260.550 are not exempt from inspection, with the exception of consumers. The shell eggs or egg products used by these persons are not exempt from the required assessment fee.

Section 5. KRS 260.640 is amended to read as follows:

(1) The Commissioner may employ inspectors for the purpose of enforcing the provisions of the egg marketing law. These inspectors may examine any eggs offered or exposed for sale for human consumption at the times and places and in a manner as the Commissioner may direct.

(2) The department shall have free access, at all reasonable hours when the business is open to the general public, to any establishment, premises, or building where eggs are processed, stored, or offered for sale, and to any vehicle used to transport or hold eggs, for the purpose of inspecting the establishment, premises, building, or vehicle or the eggs to determine compliance with the provisions of the Kentucky egg marketing law.

(3) The department shall have free access at all reasonable hours when the business is open to the general public, to any restaurant kitchen, hotel kitchen, or kitchen of any other public eating place, including schools, hospitals, nursing homes, or other similar institutions, to determine compliance with the provisions of the Kentucky egg marketing law. If the inspector determines that inspected eggs fail to comply with the Kentucky egg marketing law or standards as established by USDA, the inspector shall take the necessary action and issue an advisory on proper procedures.

(4) All licensees shall keep a record of all eggs handled during the license year, and any other records the department shall require. These records shall be available for examination by authorized agents of the department.

(5) An inspector may, for the purpose of enforcing the Kentucky egg marketing law, break any form of sealing on any case or retail container. If a broken seal necessitates the repacking of the cases or containers, the original packer shall absorb all expenses involved.

(6) A carton of eggs with any existing conditions as designated in paragraphs (a) to (d) of this subsection shall be removed from a retail display on a daily basis.

(a) Cracked eggs;

(b) Leaking eggs;

(c) Frozen eggs; or

(d) A combination of any of the above.

(7) The retailer may not rework or repack eggs into full cartons. This process may only be done by the original packer. A retailer may, however, sell an incomplete dozen provided that the quantity labeling on the carton is changed to reflect the number of eggs in the carton.

(8) The inspector shall, for the following cause, remove shell eggs or egg products from sale by issuing a withdraw from sale order:

(a) Sales without required license;

(b) Ambient temperature above forty-five (45) degrees Fahrenheit for a period of four (4) hours or more;

(c) Labeling violations;

(d) Contamination or any condition which may render the shell eggs or egg products unfit for human consumption; or

(e) Failure to remit fines or fees.

Shell eggs or egg products shall be released from the withdraw from sale order only under authorization or the direct supervision of the department as stated in the disposition section of the order.

Section 6. KRS 260.990 is amended to read as follows:

(1) Any person who knowingly violates any of the provisions of KRS 260.040 to 260.120 shall, for the first offense, be fined not less than ten dollars ($10), nor more than twenty-five dollars ($25), for the second offense, he shall be fined not less than twenty-five dollars ($25), nor more than fifty dollars ($50), and for the third and each subsequent offense, he shall be fined not less than fifty dollars ($50), nor more than two hundred dollars ($200). Whenever a violation is with respect to a lot or shipment consisting of fifty (50) or more closed packages, there may be imposed in addition to the above penalties twenty-five cents ($0.25) for the first offense, fifty cents ($0.50) for the second offense and one dollar ($1) for each subsequent offense for each package in excess of fifty (50) with respect to which the violation is committed.

(2) Any person who violates ***a withdraw from sale order as defined in Section 1 of this Act may be fined an amount up to five thousand dollars ($5,000) or imprisoned for not more than thirty (30) days***[~~any of the provisions of KRS 260.130 to 260.160 shall, for the first offense, be fined not more than twenty-five dollars ($25); for the second offense, he shall be fined not more than fifty dollars ($50), and for the third and each succeeding offense he shall be fined not more than one~~

~~hundred dollars ($100).~~

~~(3) Any person who violates any of the provisions of the egg marketing law shall be fined an amount not exceeding one hundred dollars ($100) for each offense. In a violation involving sales without a required license, each day of business operation shall constitute a separate offense.~~

~~(4) The department shall assess a penalty of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for each violation of improper labeling, including omission of any of the required information as prescribed in KRS 260.630. These penalty funds shall be credited to the department for use in carrying out the provisions of the egg marketing law~~].

The Committee Substitute to **SB 57** is as follows:

SB 57, AN ACT relating to eggs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.540 is amended to read as follows:

As used in KRS 260.540 to 260.650, unless the context otherwise requires:

(1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs;

(2) "Board" means the Egg Marketing Board;

(3) "Candle" means to determine the interior quality of a shell egg based on the use of a candling light as defined in the USDA Handbook 75(7 CFR Part 56);

(4) "Case" means a container of thirty (30) dozen shell eggs as used in commercial practice in the United States. The term "half-case" shall mean a container of fifteen (15) dozen eggs. Case also means any other quantity packaging which is considered a wholesale pack;

(5) "Check" means an egg that has a broken shell or a crack in the shell, but whose membranes are intact and whose contents are not leaking;

(6) "Commissioner" means the Commissioner of Agriculture;

(7) "Consumer" means all persons purchasing eggs for consumption and not resale;

(8) "Department" means the Department of Agriculture;

(9) "Dealer" means a person, organization, or cooperative engaged in the business of buying eggs from producers or other persons, either on his own account or as an agent, and selling or transferring eggs by the case or other quantity to a wholesaler, processor, retailer, specialty egg processor, or other persons or consumers;

(10) "Dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material, or prominent stains covering more than one-fourth (1/4) of the shell surface;

(11) "Distributor" means any person who sells, offers, or otherwise exposes shell eggs or egg products to a wholesaler, retailer, or food service facility. Distributor also means any person or producer who distributes shell eggs or egg products to his or her own retail outlet, store, or food service facility;

(12)[~~(11)~~] "Egg product" means processed and convenience forms of eggs for home and commercial use, including hard-cooked, or specialty egg products and pasteurized liquid, pasteurized frozen, or pasteurized dried egg products;

(13)[~~(12)~~] "FDA" means the Federal Food and Drug Administration;

(14)[~~(13)~~] "Handler" means a dealer, packer, processor, wholesaler, ***distributor,*** or retailer;

(15)[~~(14)~~] "Inedible" means an egg that is unfit for human food in whole or in part, addled or moldy, containing black rot, white rot, blood ring, adherent yolks, or bloody whites, incubated beyond the blood ring stage, or consisting to any extent of filthy decomposed substance. This also includes any eggs unfit for human consumption due to causes other than those listed in this subsection;

(16)[~~(15)~~] "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell;

(17)[~~(16)~~] "Loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or contains a bloody white, large meat spots, a large quantity of blood, or other foreign material;

(18)[~~(17)~~] "Lot" means any given quantity of two (2) or more eggs of a named grade, billed on an invoice or inspected by the department;

(19)[~~(18)~~] "Packer" means any person who grades, sizes, candles, and packs eggs for purposes of sale;

(20)[~~(19)~~] "Person" means any individual, firm, partnership, corporation, company, association, or any other type of business entity that traffics in, handles, or sells eggs, and shall include any trustee, receiver, or similar representative;

(21)[~~(20)~~] "Producer" means any person who exercises control over the production of eggs and disposes of eggs from the

output of his or her personally owned flock;

(22)[~~(21)~~] "Retailer" means any person selling or offering eggs for sale to consumers in this state;

(23)[~~(22)~~] "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade;

(24)[~~(23)~~] "Shell eggs" means the product of the domesticated hen and any other egg from the avian species offered for human consumption in its shell form;

(25)[~~(24)~~] "Specialty egg processor" means a person who operates a plant for the purpose of breaking eggs for freezing or drying or commercial food manufacturing, and includes a person distributing his or her products from out-of-state. A specialty egg processor may also be know as a breaker or breaking plant;

(26)[~~(25)~~] "Specialty egg products" means egg specialties processed for the food service industry including: wet-pack and dry-pack prepeeled hard-cooked eggs, either whole, wedged, sliced, chopped, or pickled; long rolls of hard-cooked eggs; frozen omelets; egg patties; quiche; quiche mix; frozen French toast; frozen scrambled egg mix in boilable pouches; frozen fried eggs; frozen precooked scrambled eggs; freeze-dried scrambled eggs; ultra-pasteurized liquid eggs; free-flowing frozen egg pellets; and specially coated shelf-stable hard-cooked eggs; or any other products using eggs;

(27)[~~(26)~~] "Wholesaler" means a handler who is engaged in the business of buying eggs from producers or other persons on the handler's own account and selling or transferring eggs to other dealers, wholesalers, processors, or retailers, or through other distribution channels;

(28) "Withdraw from sale order" means an order issued by an inspector or other authorized agent of the department, permanently removing shell eggs or egg products from retail sale or distribution;

(29)[~~(27)~~] "Candled and Graded" means candled and graded under state and federal standards and regulations;

(30)[~~(28)~~] "Ungraded and Candled" means the general run of edible eggs as they come from the producer, not sized or graded, but candled;[~~ and~~]

(31)[~~(29)~~] "USDA" means the United States Department of Agriculture***; and***

(32) "Stop Order" means an order issued by an inspector or other authorized agent of the department removing the shell egg or egg products from retail sale until a release or change of order has been issued by an inspector or authorized agent of the department. The term of a stop order shall not be for longer than ten (10) calendar days.

Section 2. KRS 260.550 is amended to read as follows:

(1) No person shall buy, sell, trade, traffic, or process eggs in Kentucky without a license issued pursuant to the egg marketing law, with the following exceptions:

(a)[~~(1)~~] Hatcheries purchasing eggs to be used exclusively for hatching purposes;

(b)[~~(2)~~] Hotels, restaurants, and other eating places where all eggs purchased are served in the establishment;

(c)[~~(3)~~]Bakeries, confectioneries, and ice cream manufacturers who use eggs in a manufactured product;

(d)[~~(4)~~] Consumers buying eggs for their own consumption; or

(e)[~~(5)~~]Producers who sell only directly to consumers and do not exceed a sales limit of sixty (60) dozen eggs per calendar week.

(2) Any person engaged in the act of selling shell eggs or egg products under any of the following circumstances shall have all shell eggs and egg products placed under a stop order:

(a) Selling or otherwise marketing shell eggs or egg products without a license;

(b) Failing to remit or pay fines owed to the department; or

(c) Failing to properly label shell eggs or egg products.

(3) Any person natural or otherwise engaged in the act of selling shell eggs or egg products that has been cited by an inspector or agent of the department for a cause listed in subsection (8)(a) or (b) of Section 5 of this Act shall be placed under a withdraw from sale order until such time as the department or an authorized agent of the department rescinds the order.

Section 3. KRS 260.570 is amended to read as follows:

(1) There shall be an egg marketing board in the Department of Agriculture. The board shall act in an advisory capacity to the Commissioner in all matters pertaining to the administration of the egg marketing law.

(2) The board shall be composed of the Commissioner, chairman ex officio, and six (6) members appointed by the Governor from lists of names submitted by egg producing and marketing organizations within the Commonwealth approved by the Commissioner for the purpose of submitting such lists. Appointments shall be for three (3) years, except that in the case of the members first appointed, two (2) members shall be appointed for one (1) year, two (2) members for two (2) years, and two (2) members for three (3) years. All members must be residents of the Commonwealth and not more than three (3) shall be of the same political party.

(3) The board shall meet at least once each ***calendar year***[~~fiscal quarter~~] and at such other times as the ***Commissioner, acting*** chairman***, or a quorum of the board*** may deem necessary. The chairman shall serve without additional compensation, but

the members shall receive reimbursement for their necessary traveling expenses and the sum of ***fifty dollars ($50)***[~~twenty-five dollars ($25)~~] per day for each day they attend board meetings, payable out of funds derived from administration of the egg marketing law.

Section 4. KRS 260.600 is amended to read as follows:

(1) Any person requiring a license may obtain an application by calling the Kentucky Department of Agriculture, Division of Regulation and Inspection. A license may be renewed when accompanied by a renewal application and the required fees. ***A license for the current year shall not be issued if there are past due license fees and penalties pending for previous years.*** With regard to shell egg dealers, wholesalers, and packers, and specialty egg processors, dealers, and wholesalers, all of the previous year's assessment fees shall be current before licenses shall be renewed. Any person selling eggs without the required license will be subject to having the eggs removed from sale until a license has been acquired.

(2) A license is required of each handler of eggs selling in the Commonwealth subject to the exceptions specified in KRS 260.550. The annual license fees are as follows, varying for dealers, ***distributors,*** wholesalers, ***producers,*** and packers, according to the average weekly volume of the month in which the licensee handled the most eggs during the preceding year:

(a) Retailers ***$20.00***[~~$ 5.00~~]

(b) Shell egg dealers, ***distributors,*** wholesalers, producers, and packers within Kentucky or out-of-state:

1-25 cases or 1-750 dozen	***$20.00***[~~$10.00~~]
26-50 cases or 751-1500 dozen	***$30.00***[~~$20.00~~]
Over 50 cases or over 1500 dozen	***$50.00***[~~$40.00~~]

(c) Specialty egg processors, dealers, and wholesalers within Kentucky or out-of-state .... $50.00.

(3) Any egg handler engaged in more than one (1) type of activity for which a license is provided shall pay that license fee which is the highest of the licenses prescribed for each type of activity in which he is engaged.

(4) All eggs bought or sold within the Commonwealth of Kentucky shall bear a two cent ($0.02) assessment fee for each fifteen (15) dozen shell egg lot or portion thereof. Pasteurized liquid and pasteurized frozen egg products shall be assessed a fee of one-half (1/2) cent ($0.005) per ten (10) pound lot. Dried, dehydrated, hard-cooked, or specialty egg products shall be assessed a fee of one cent ($0.01) per ten (10) pound lot. ***These assessment fees shall be assessed and paid one (1) time as agreed between responsible parties as the product moves through the distribution network.*** All reports and fees are due monthly and shall be received by the department prior to the fifteenth of the month following the month of activity, unless there is an agreement with the department to report and pay these fees on a quarterly, semi-annual, or annual basis. In this event, the reports and fees shall be received prior to the fifteenth of the month following the period of activity.

(5) All licenses shall expire on April 1 of each year. Handlers having more than one (1) place of business shall hold a license for each location. Licenses shall not be transferred.

(6) Those that are exempt from licensing under KRS 260.550 are not exempt from inspection, with the exception of consumers. The shell eggs or egg products used by these persons are not exempt from the required assessment fee.

Section 5. KRS 260.640 is amended to read as follows:

(1) The Commissioner may employ inspectors for the purpose of enforcing the provisions of the egg marketing law. These inspectors may examine any eggs offered or exposed for sale for human consumption at the times and places and in a manner as the Commissioner may direct.

(2) The department shall have free access, at all reasonable hours when the business is open to the general public, to any establishment, premises, or building where eggs are processed, stored, or offered for sale, and to any vehicle used to transport or hold eggs, for the purpose of inspecting the establishment, premises, building, or vehicle or the eggs to determine compliance with the provisions of the Kentucky egg marketing law.

(3) The department shall have free access at all reasonable hours when the business is open to the general public, to any restaurant kitchen, hotel kitchen, or kitchen of any other public eating place, including schools, hospitals, nursing homes, or other similar institutions, to determine compliance with the provisions of the Kentucky egg marketing law. If the inspector determines that inspected eggs fail to comply with the Kentucky egg marketing law or standards as established by USDA, the inspector shall take the necessary action and issue an advisory on proper procedures.

(4) All licensees shall keep a record of all eggs handled during the license year, and any other records the department shall require. These records shall be available for examination by authorized agents of the department.

(5) An inspector may, for the purpose of enforcing the Kentucky egg marketing law, break any form of sealing on any case or retail container. If a broken seal necessitates the repacking of the cases or containers, the original packer shall absorb all expenses involved.

(6) A carton of eggs with any existing conditions as designated in paragraphs (a) to (d) of this subsection shall be removed from a retail display on a daily basis.

(a) Cracked eggs;

(b) Leaking eggs;

(c) Frozen eggs; or

(d) A combination of any of the above.

(7) The retailer may not rework or repack eggs into full cartons. This process may only be done by the original packer. A retailer may, however, sell an incomplete dozen provided that the quantity labeling on the carton is changed to reflect the number of eggs in the carton.

(8) The inspector shall, for the following cause, remove shell eggs or egg products from sale by issuing a withdraw from sale order:

(a) Ambient temperature above forty-five (45) degrees Fahrenheit for a period of four (4) hours or more; or

(b) Contamination or any condition which may render the shell eggs or egg products unfit for human consumption.

Shell eggs or egg products shall be released from the withdraw from sale order only under authorization or the direct supervision of the department as stated in the disposition section of the order.

Section 6. KRS 260.990 is amended to read as follows:

(1) Any person who knowingly violates any of the provisions of KRS 260.040 to 260.120 shall, for the first offense, be fined not less than ten dollars ($10), nor more than twenty-five dollars ($25), for the second offense, he shall be fined not less than twenty-five dollars ($25), nor more than fifty dollars ($50), and for the third and each subsequent offense, he shall be fined not less than fifty dollars ($50), nor more than two hundred dollars ($200). Whenever a violation is with respect to a lot or shipment consisting of fifty (50) or more closed packages, there may be imposed in addition to the above penalties twenty-five cents ($0.25) for the first offense, fifty cents ($0.50) for the second offense and one dollar ($1) for each subsequent offense for each package in excess of fifty (50) with respect to which the violation is committed.

(2) Any person who violates ***a stop order in violation of subsection (2) of Section 2 of this Act shall be fined one hundred dollars ($100) for the first offense, be fined two hundred fifty dollars ($250) for the second offense, and have his or her license revoked or suspended or, if the person has no license, be fined one thousand dollars ($1,000) for each subsequent offense.***

(3) Any person who violates a withdraw from sale order in violation of subsection (3) of Section 2 of this Act shall be guilty of a Class B misdemeanor[~~any of the provisions of KRS 260.130 to 260.160 shall, for the first offense, be fined not more than twenty-five dollars ($25); for the second offense, he shall be fined not more than fifty dollars ($50), and for the third and each succeeding offense he shall be fined not more than one hundred dollars ($100).~~

~~(3) Any person who violates any of the provisions of the egg marketing law shall be fined an amount not exceeding one hundred dollars ($100) for each offense. In a violation involving sales without a required license, each day of business operation shall constitute a separate offense.~~

~~(4) The department shall assess a penalty of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for each violation of improper labeling, including omission of any of the required information as prescribed in KRS 260.630. These penalty funds shall be credited to the department for use in carrying out the provisions of the egg marketing law~~].

The Committee on Agriculture and Natural Resources reported **SR 55** with expression of opinion that same should pass. Read at length for the first time and placed in the Consent Calendar.

SR 55 is as follows:

SR 55, A RESOLUTION consenting to the appointment of William Gregory Coker as a commissioner of the Public Service Commission.

WHEREAS, KRS 278.050 requires the Governor to appoint the three members of the Public Service Commission subject to the advice and consent of the Senate; and

WHEREAS, on August 16, 2004, Governor Ernie Fletcher, by Executive Order 2004-898, appointed William Gregory Coker to serve as a commissioner of the Public Service Commission to replace Martin J. Huelsmann whose term had expired; and

WHEREAS, the Senate finds that William Gregory Coker meets the requirements of KRS 278.060, being a resident and qualified voter of Kentucky, being not less than 25 years of age at the time of his appointment, having resided in the state for at least three years prior to his appointment, not holding any official relationship to any utility, not owning any stocks or bonds of any utility, and not having any pecuniary interest in any utility;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate, in accordance with KRS. 278.050, consents to the appointment of William Gregory Coker as a commissioner of the Public Service Commission for a term expiring July 1, 2008.

Section 2. The Clerk of the Senate shall forward a copy of this Resolution and written notification to William Gregory Coker, Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602 and to Governor Ernie Fletcher, Capitol, Frankfort, Kentucky 40601.

The Committee on Appropriations and Revenue reported **SB 49** with Committee Substitute with expression of opinion that same should pass. Referred to the Committee on Rules.

The Committee Substitute to **SB 49** is as follows:

SB 49, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Department of Corrections.
        (d) Department of Juvenile Justice.
        (e) Office of the Secretary.
        (f) Offices of the Deputy Secretaries.
        (g) Office of General Counsel.
        (h) Division of Kentucky State Medical Examiners Office.
        (i) Parole Board.
        (j) Kentucky State Corrections Commission.
        (k) Commission on Correction and Community Service.
    2. Education, Arts, and Humanities Cabinet:
        (a) Department of Education.
            (1) Kentucky Board of Education.
        (b) Department for Libraries and Archives.
        (c) Kentucky Arts Council.

(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f)[~~Kentucky Teachers' Retirement System Board of Trustees.~~
~~(g)~~] Kentucky Center for the Arts.
(g)[~~(h)~~] Kentucky Craft Marketing Program.
(h)[~~(i)~~] Kentucky Commission on the Deaf and Hard of Hearing.
(i)[~~(j)~~] Governor's Scholars Program.
(j)[~~(k)~~] Governor's School for the Arts.
(k)[~~(l)~~] Operations and Development Office.
(l)[~~(m)~~] Kentucky Heritage Council.
(m)[~~(n)~~] Kentucky African-American Heritage Commission.
(n)[~~(o)~~] Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.
(h) Office of Inspector General.

4. Transportation Cabinet:
(a) Department of Highways.
1. Office of Program Planning and Management.
2. Office of Project Development.
3. Office of Construction and Operations.
4. Office of Intermodal Programs.
5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.
(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.

(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.
6. Environmental and Public Protection Cabinet:
   (a) Public Service Commission.
   (b) Department of Insurance.
   (c) Department of Housing, Buildings and Construction.
   (d) Department of Financial Institutions.
   (e) Department of Mines and Minerals.
   (f) Department of Public Advocacy.
   (g) Department of Alcoholic Beverage Control.
   (h) Kentucky Horse Racing Authority.
   (i) Board of Claims.
   (j) Crime Victims Compensation Board.
   (k) Kentucky Board of Tax Appeals.
   (l) Office of Petroleum Storage Tank Environmental Assurance Fund.
   (m) Department of Charitable Gaming.
   (n) Mine Safety Review Commission.
7. Cabinet for Families and Children:
   (a) Department for Community Based Services.
   (b) Department for Disability Determination Services.
   (c) Public Assistance Appeals Board.
   (d) Office of the Secretary.
      (1) Kentucky Commission on Community Volunteerism and Service.
   (e) Office of the General Counsel.
   (f) Office of Program Support.
   (g) Office of Family Resource and Youth Services Centers.
   (h) Office of Technology Services.
   (i) Office of the Ombudsman.
   (j) Office of Human Resource Management.
8. Cabinet for Health Services.
   (a) Department for Public Health.
   (b) Department for Medicaid Services.
   (c) Department for Mental Health and Mental Retardation Services.
   (d) Kentucky Commission on Children with Special Health Care Needs.
   (e) Office of Certificate of Need.
   (f) Office of the Secretary.
   (g) Office of the General Counsel.
   (h) Office of the Inspector General.
   (i) Office of Aging Services.
9. Finance and Administration Cabinet:
   (a) Office of ***General Counsel***~~[Financial Management]~~.
   (b) Office of the Controller.
   (c) ***Office of Administrative Services***~~[Department for Administration]~~.
   (d) ***Office of Public Information***~~[Department of Facilities Management]~~.
   (e) ***Department for Facilities and Support Services.***
   (f) Department of Revenue.
   (g) Commonwealth Office of Technology.
   (h) State Property and Buildings Commission.

[~~(f) Kentucky Pollution Abatement Authority.~~]
(i)[~~(g)~~] Kentucky Savings Bond Authority.
[~~(h) Deferred Compensation Systems.~~]
(j)[~~(i)~~] Office of Equal Employment Opportunity ***and*** Contract Compliance.
[~~(j) Office of Capital Plaza Operations.~~]
(k) County Officials Compensation Board.
(l) Kentucky Employees Retirement Systems.
(m) Commonwealth Credit Union.
(n) State Investment Commission.
(o) Kentucky Housing Corporation.
[~~(p) Governmental Services Center.~~]
(p)[~~(q)~~] Kentucky Local Correctional Facilities Construction Authority.
(q)[~~(r)~~] Kentucky Turnpike Authority.
(r)[~~(s)~~] Historic Properties Advisory Commission.
(s)[~~(t)~~] Kentucky Tobacco Settlement Trust Corporation.
(t)[~~(u)~~] Eastern Kentucky Exposition Center Corporation.
(u)[~~(v)~~] State Board for Proprietary Education.
(v) Kentucky Higher Education Assistance Authority.
(w) Kentucky River Authority.
(x) Kentucky Teachers' Retirement System Board of Trustees.
10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.
11.[~~ Revenue Cabinet:~~
~~(a) Department of Property Valuation.~~
~~(b) Department of Tax Administration.~~
~~(c) Office of Financial and Administrative Services.~~
~~(d) Department of Law.~~
~~(e) Department of Information Technology.~~
~~(f) Office of Taxpayer Ombudsman.~~
~~12.~~] Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.

12.[~~13~~]. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.
(g) The Foundation for Adult Education.
(h) Department for Training and Reemployment.
(i) Office of General Counsel.
(j) Office of Communication Services.
(k) Office of Workforce Partnerships.
(l) Office of Workforce Analysis and Research.
(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.

13.[~~14~~]. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. [~~The Governor's Office for Technology.~~
~~9.~~]Commission on Small Business Advocacy.
9.[~~10.~~] Education Professional Standards Board.

Section 2. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7) Kentucky Coal Council;
(8) Governor's Office of Child Abuse and Domestic Violence Services;
(9) [~~Governor's Office for Technology;~~
~~(10)~~] Office of Coal Marketing and Export;
(10)[~~(11)~~] Agricultural Development Board;
(11)[~~(12)~~] Commission on Small Business Advocacy;
(12)[~~(13)~~] Office of Early Childhood Development;
(13)[~~(14)~~] Kentucky Agency for Substance Abuse Policy;
(14)[~~(15)~~] Education Professional Standards Board; and
(15)[~~(16)~~] Kentucky Agricultural Finance Corporation.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6) Public Protection and Regulation Cabinet.
(7) Cabinet for Health Services.
(8) Cabinet for Families and Children.
(9) Finance and Administration Cabinet.
(10) Tourism Development Cabinet.
(11) [~~Revenue Cabinet.~~
~~(12)~~] Labor Cabinet.
(12)[~~(13)~~] Cabinet for Workforce Development.
(13)[~~(14)~~] Personnel Cabinet.

Section 4. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, [~~the Revenue Cabinet,~~]the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 5. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the*:*

(a) Office of ***the secretary;***

(b) Commonwealth Office of Technology~~[Financial Management, the Office of Capital Plaza Operations]~~, and the Office of the Controller, each of which shall be headed by an executive director ***appointed by the secretary with the approval of the Governor; and***

(c) ~~[, the]~~Department ***of Revenue***~~[for Administration,]~~ and the Department for Facilities ***and Support Services***~~[Management]~~, each of which shall be headed by a commissioner appointed by the secretary, upon the approval of the Governor, and responsible to the secretary. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into the offices, bureaus, divisions, or other units the secretary deems necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

(3) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050, and such appointees shall be major assistants to the secretary and shall assist in the development of policy.

Section 6. KRS 42.013 is repealed and reenacted as KRS 42.0145 and amended to read as follows:

(1) The office of the secretary of the Finance and Administration Cabinet ***shall consist of the Office of General Counsel, Office of Administrative Services, Office of Public Information, and Office of Equal Employment Opportunity and Contract Compliance, each headed by an executive director who shall be appointed by the secretary with the approval of the Governor. The office of the secretary*** shall include a deputy secretary who shall be appointed by the secretary with the approval of the Governor. The deputy secretary shall be responsible to and have such authority to sign for the secretary as the secretary designates in writing.

(2) The secretary may organize the office into such additional administrative units as he deems necessary to perform the functions and fulfill the duties of the cabinet, subject to the provisions of KRS Chapter 12.~~[The Office of the Secretary shall include the Office of Technology Operations, the Office of Legal and Legislative Services, the Office of Management and Budget, the Customer Resource Center, and the Administrative Policy and Audit Division.]~~

(3) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050, and such appointees shall be major assistants to the secretary and shall assist in the development of policy.

SECTION 7. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The Office of Public Information, in close communication with the secretary, shall oversee all publication information issues, manage requests for information, prepare press releases, respond to press inquiries, and coordinate the publication of newsletters, reports, Web site information, and other statewide communications of the cabinet.

Section 8. KRS 42.017 is amended to read as follows:

(1) The Office of ***General Counsel***~~[Legal and Legislative Services]~~ established within the Office of the Secretary by ***Section 6 of this Act***~~[KRS 42.013]~~ shall be ~~[generally]~~responsible for ***the coordination and provision of legal services for the cabinet and for other***~~[such]~~ functions and duties as the secretary may assign relating to the performance of the cabinet's legal services~~[and legislative liaison functions]~~.

(2) ~~[There shall be included within]~~The Office of ***General Counsel shall be headed by an executive director who shall function as the***~~[Legal and Legislative Services a]~~ general counsel***. The executive director shall be appointed in accordance with***~~[, whose appointment shall be made pursuant to]~~ KRS 12.210 ***and***~~[, who]~~ shall report to the secretary~~[through the head of the Office of Legal and Legislative Services]~~. The Attorney General, on request of the secretary, may designate attorneys in the Office of ***General Counsel***~~[Legal and Legislative Services]~~ as assistant attorneys general as provided in KRS 15.105.

(3) The Office of General Counsel shall consist of two (2) offices, each of which shall provide legal services for its respective offices and departments, as follows:

(a) Office of Legal Services for Finance and Technology, headed by an executive director and composed of organizational entities deemed appropriate by the secretary of the Finance and Administration Cabinet; and

(b) Office of Legal Services for Revenue, headed by an executive director, including the Division of Protest Resolution and any additional organizational entities deemed appropriate by the secretary of the Finance and Administration Cabinet.

Section 9. KRS 42.023 is repealed and reenacted as KRS 42.0171 and amended to read as follows:

(1) The ***Office of Administrative Services established in Section 6 of this Act***~~[Department for Administration of the cabinet established by KRS 42.014]~~ shall be generally responsible for ***all internal administrative and human resource functions of the cabinet, including but not limited to providing administrative assistance; managing and preparing the cabinet's budget; performing general accounting; managing fiscal, personnel, and payroll functions of the cabinet; providing statewide postal and printing services; providing administrative support to boards and commissions; and performing*** any ***additional administrative*** functions and duties the secretary may assign~~[relating, but not limited to, supervision of purchasing and store keeping, control of stores, control of personal property and disposition of surplus personal property, printing and reproductions, state forms, postal services, and technical assistance and advice to state agencies]~~.

(2) There shall be established in the ***Office of Administrative Services the Division of Budget and Planning, the Division of***

Human Resources, the Division of Administrative Support Services, the Division of Occupations and Professions, the Division of Postal Services, and the Division of Printing Services~~[Department for Administration a Division of Material and Procurement Services, a Division of Surplus Property, a Division of Printing, a Division of Risk Management, a Division of Creative Services, a Division of Occupations and Professions, and a Division of Postal Services]~~, each of which shall be headed by a *division* director appointed by the *secretary of the Finance and Administration Cabinet*~~[commissioner]~~, subject to the approval of the Governor, and who shall be responsible to the *executive director of the Office of Administrative Services*~~[commissioner]~~. There may be, if needed, sections assigned to specific areas of work, responsible directly to the *executive director of the Office of Administrative Services*~~[commissioner for administration]~~.

Section 10. KRS 42.025 is repealed and reenacted as KRS 42.0172 and amended to read as follows:

(1) The Division of Printing *Services* shall be responsible for the printing and duplicating needs of state agencies, as designated by the Finance and Administration Cabinet.

(2) The Division of Postal Services shall operate the centralized postal services for executive branch agencies as set forth in KRS 12.020. The division shall operate at a central location with additional locations necessary to maintain and improve service levels.

Section 11. KRS 42.0201 is amended to read as follows:

(1) There is created within the Finance and Administration Cabinet the Office of the Controller. ~~[The office shall be attached to the Office of the Secretary of the Finance and Administration Cabinet for administrative and reporting purposes.]~~

(2) The Office of the Controller shall be headed by an executive director appointed by the secretary of the Finance and Administration Cabinet with the approval of the Governor. The executive director shall function as the state controller, who shall be a person qualified by education and experience for the position and held in high professional esteem in the accounting community.

(3) The state controller shall be the Commonwealth's chief accounting officer and shall be responsible for all aspects of accounting policies and procedures, financial accounting systems, and internal accounting control policies and procedures. The Office of the Controller shall establish guidelines for state personnel administration on issues relating to paycheck distribution dates, assignment of data elements to accurately report labor costs, assignment and tracking of actual expenditures by code, and coverage issues relating to Social Security and Medicare.

(4) The state controller; the executive director of the Office of Financial Management, Finance and Administration Cabinet; and the state budget director designated under KRS 11.068 shall develop and maintain the Commonwealth's strategic financial management program.

(5) *Executive directors and division directors appointed under this section shall be appointed by the secretary with the approval of the Governor.*

(6) There are established in the Office of the Controller the *following organizational entities:*~~[Division of Statewide Accounting Services and the Division of Social Security.]~~

(a) *The Office of Policy and Audit, which shall be headed by an executive director and shall have the duties and responsibilities established in Section 13 and Section 14 of this Act;*

(b) The Office of Financial Management, which shall be headed by an executive director and shall have the duties and responsibilities established in Section 16 of this Act;

(c) The Office of Material and Procurement Services, which shall be headed by an executive director and shall have the duties established in Section 12 of this Act;

(d) The Office of Customer Resource Center, which shall be headed by an executive director and shall be responsible for providing a help desk for users of state government's financial and procurement system, including state employee users and vendors and payees of the Commonwealth who do, or would like to do, business with the state; training state employees in the use of state government's financial and procurement system; and assisting cabinet entities in improving the quality of their products and processes;

(e) The Division of Local Government Services, which shall be headed by a division director and shall be responsible for:

1. Providing property valuation administrators with fiscal, personnel, payroll, training, and other essential administrative support services;

2. Overseeing Kentucky's Social Security coverage program, including but not limited to all aspects of FICA wage reporting for state government and the Commonwealth's Social Security coverage agreement;

3. Serving as liaison between local governments and the federal Internal Revenue Service and Social Security Administration;

4. Serving as the payroll and fiscal officer for the sheriff and clerk in counties over seventy thousand (70,000) in population, disbursing various reimbursements and expenditures to local governments and serving as liaison and conduit for all court fees associated with report of state money through the Circuit Courts;

5. Directing the federal employment tax program for state employees; and

6. Performing state government's duties relating to the county fee system for local entities;

(f) The Division of Statewide Accounting Services***, headed by a division director***[~~shall be headed by a director~~] appointed by the secretary of the Finance and Administration Cabinet, subject to the approval of the Governor. The director shall report directly to the state controller. The division shall perform financial record keeping functions at the state controller's direction, and shall be responsible for[~~:~~

~~1.~~] the performance of the cabinet's functions outlined in KRS 45.305, 48.800, and other related statutes[~~; and~~

~~2. The state government's duties and functions relating to the county fee system for local entities.~~

~~(b) The Division of Social Security shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet pursuant to KRS 12.050. The director shall report directly to the state controller. The division shall be responsible for the duties of the state agency for Social Security specified in KRS 61.410 to 61.500~~].

Section 12. KRS 42.024 is amended to read as follows:

[~~(1)~~]The ***Office***[~~Division~~] of Material and Procurement Services ***within the Office of the Controller*** shall be responsible for the performance of the cabinet's purchasing functions under KRS Chapters 45 and 45A, except those purchasing functions related to the acquisition of interests in real property, and contractual and construction services which are related to and required in connection with the construction, renovation, and repair of state-owned buildings. The ***Office***[~~Division~~] of Material and Procurement Services shall be responsible for the control of all state-purchased personal property.

[~~(2) The Division of Surplus Property shall be responsible for the disposition of all personal property of the state declared surplus. The division shall be the single state agency of the Commonwealth of Kentucky that may receive, warehouse, and distribute surplus property under the Federal Property and Administrative Services Act of 1949, as amended, and any other federal law relating to the disposal of surplus federal property to the states and political subdivisions within the states. The division shall comply with federal laws and regulations in the administration of surplus property received through federal agencies. The secretary of the Finance and Administration Cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to comply with the minimum standards established by federal laws and regulations governing disposal of surplus federal property and to implement subsection (3) of this section.~~

~~(3) The Division of Creative Services shall provide photography, multimedia, and graphic service to state government.~~

~~(4) The secretary of the Finance and Administration Cabinet may establish, charge, and collect from donees of federal surplus property a fair and reasonable fee or service charge to defray the cost of operating the surplus property disposal program. The fees shall be deposited in a trust and agency account in the State Treasury to the credit of the Division of Surplus Property.~~]

Section 13. KRS 42.065 is amended to read as follows:

(1) ***The Office of***[~~An Administrative~~] Policy and Audit[~~ Division is~~] established in the Office of the ***Controller in Section 11 of this Act***[~~Secretary within the Finance and Administration Cabinet.~~

~~(2) The Administrative Policy and Audit Division shall be headed by a director, appointed by the secretary of finance pursuant to KRS 12.050, and shall include other personnel employed pursuant to KRS Chapter 18A, as determined by the director of the division, with the approval of the secretary, to be necessary and desirable to carry out the division's functions.~~

~~(3) The division~~] may, with the approval of the secretary of ***the Finance and Administration Cabinet***[~~finance~~], conduct any internal audit, investigation, or management review in the Finance and Administration Cabinet related to the secretary's duties and responsibilities as chief financial officer of the Commonwealth pursuant to KRS 42.012.

(2)[~~(4)~~] When it is necessary to complete an internal audit, investigation, or management review in the Finance and Administration Cabinet, with the written approval of the secretary of the ***Finance and Administration Cabinet, the Office of Policy and Audit***[~~Governor's Executive Cabinet, the division~~] shall have access, during business hours, to all books, reports, papers, and accounts in the office or under the custody or control of any budget unit, or of any other program cabinet, department, or agency under the authority and direction of the Governor.

Section 14. KRS 42.0245 is repealed and reenacted as KRS 42.0651 and amended to read as follows:

(1)[~~ There is established within the Department for Administration in the Finance and Administration Cabinet the Division of Risk Management. The division shall be headed by a director who shall be appointed by the secretary of the Finance and Administration Cabinet subject to the approval of the Governor.~~

~~(2)~~] The ***Office of Policy and Audit***[~~Division of Risk Management~~] shall:

(a) Oversee and assist the management of the state fire and tornado insurance fund established in KRS Chapter 56;

(b) Develop and manage programs of risk assessment and insurance for the protection of state property not covered by the state fire and tornado insurance fund;

(c) Advise the secretary of the Finance and Administration Cabinet on the fiscal management of programs relating to life insurance, workers' compensation, and health care benefits for state employees;

(d) Serve as the central clearinghouse for coordinating and evaluating existing and new risk management programs within all state agencies;

(e) Develop financing techniques for risk protection; and

(f) Develop and implement other risk management, insurance, and self-insurance programs or other functions and duties as the secretary of the Finance and Administration Cabinet may direct the office to undertake and implement within the general statutory authority and control of the Finance and Administration Cabinet over state property and fiscal affairs of the executive branch of state government, including, but not limited to, those areas pertaining to tort and contractual liability, fidelity, and property risks.

(2)[~~(3)~~] Nothing in this section shall be construed or interpreted as affecting the operation of the employee benefit programs generally administered by the Division of Employee Benefits within the Personnel Cabinet and of the State Risk and Insurance Services programs administered by the Department of Insurance. However, both of those departments shall coordinate the operation of life insurance, workers' compensation, health care benefit programs, and other self-insured programs with the ***Office of Policy and Audit***[~~Division of Risk Management~~].

(3)[~~(4)~~] All cabinets, departments, boards, commissions, and other state agencies shall provide to the ***Office of Policy and Audit***[~~Division of Risk Management~~] the technical advice and other assistance the ***Office of Policy and Audit***[~~Division of Risk Management~~] or the secretary of the Finance and Administration Cabinet shall request in the performance of the functions of the ***office***[~~division~~] as described in this section.

(4)[~~(5)~~] The secretary of the Finance and Administration Cabinet shall have the power and authority to promulgate administrative regulations pursuant to KRS Chapter 13A for purposes of implementing a risk management program for the executive branch of state government. Any administrative regulations promulgated by the secretary shall be administered by the ***Office of Policy and Audit***[~~Division of Risk Management~~].

Section 15. KRS 42.400 is amended to read as follows:

(1) ***The Office of Financial Management established in Section 11 of this Act***[~~There is established within the Finance and Administration Cabinet an Office of Financial Management, which~~] shall be headed by an executive director responsible to the secretary of the Finance and Administration Cabinet, and appointed by the secretary upon approval of the Governor in accordance with the provisions of KRS 12.050.

(2) There are included in the Office of Financial Management ***established in Section 11 of this Act***[~~,~~] the positions of deputy executive directors for investment and debt management, who shall be employed in the classified service as set forth in KRS Chapter 18A.

Section 16. KRS 42.410 is amended to read as follows:

(1) The Office of Financial Management established in ***Section 11 of this Act***[~~KRS 42.400~~] shall, subject to the provisions of KRS 41.020 to 41.375 and KRS 42.500, have and perform functions and duties as follows:

(a) The analysis and management of short and long-term cash flow requirements;

(b) The maximization of the return on state investments given the cash flow and liquidity requirements;

(c) The coordination and monitoring of cash needs relative to investment and debt activity;

(d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;

(e) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments; and

(f) All other functions of the cabinet relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the State Property and Buildings Commission***, the Asset Liability Commission,*** and the State Investment Commission.

(2) The Office of Financial Management shall render monthly written reports concerning the performance of each investment to the State Investment Commission.

(3) The Office of Financial Management shall review state appropriation-supported bond issues[~~ every six (6) months~~] for possible debt service savings through[~~ advanced~~] refundings ***as market conditions warrant***.

(4) The Office of Financial Management shall submit a report within forty-five (45) days after the publication of the Comprehensive Annual Financial Report to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, disposition of savings, and information on economic, fiscal, and market indicators of the Commonwealth's debt position.

(5) The state debt report shall include, but not be limited to, economic, fiscal, and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.

(6) Economic indicators shall include:

(a) Nonappropriation-supported debt as a percent of state total personal income;

(b) Nonappropriation-supported debt as a percent of total assessed value of property;

(c) Nonappropriation-supported debt per capita;

(d) Appropriation-supported debt as a percent of state total personal income;

(e) Appropriation-supported debt as a percent of total assessed value of property;

(f) Appropriation-supported debt per capita;

(g) Appropriation-supported debt service as a percent of total state personal income;

(h) Appropriation-supported debt service as a percent of total assessed value of property; and

(i) Appropriation-supported debt service per capita.

(7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund account from which debt service is expended.

(8) Fiscal indicators shall include:

(a) Annual appropriation-supported debt service as a percent of total revenues; and

(b) Annual appropriation-supported debt service as a percent of available revenues.

(9) Market indicators shall include:

(a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each nonappropriation-supported bond issued in the fiscal year just ended;

(b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;

(c) A comparison of the difference between the true interest cost of each nonappropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service on a date relevant to the bond issue; and

(d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service on a date relevant to the bond issue.

(10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service, and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population, and selected bond indexes.

(11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.

(12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission by KRS 42.500 and 42.525.

Section 17. KRS 42.027 is repealed and reenacted as KRS 42.425 and amended to read as follows:

(1) ***(a)*** The Department for Facilities ***and Support Services***~~[Management]~~ established in the Finance and Administration Cabinet by ***Section 5 of this Act***~~[KRS 42.014]~~ shall be generally responsible for performance of the cabinet's functions and duties as outlined in KRS Chapters 45, 45A, and 56 with relation to the management and administration of the State Capital Construction Program, including without limitation to the generality thereof the procurement of necessary consulting services related to capital construction and building renovation projects, construction services, and supervision of building construction projects, and for the maintenance and operation of the state government's real property management functions and physical plant management functions.

(b) The department shall be headed by a commissioner appointed by the secretary of the Finance and Administration Cabinet.

(c) The department shall have the primary responsibility for developing and implementing policies applicable to all state agencies to ensure effective planning for and efficient operation of state office buildings, and shall provide appropriate assistance regarding the planning and efficient operation of all state facilities.

(d) The department shall be divided for administrative and operational purposes into a***:***

1. Division of Engineering ***and Contract Administration;***

2. Office of Building and Mechanical Services, headed by an executive director appointed by the secretary in accordance with KRS 12.050. The office shall provide building and grounds maintenance, mechanical maintenance, and electronic security services to state-owned facilities across the Commonwealth and shall consist of the Division of Building Services and the Division of Mechanical Services;~~[a Division of Contracting and Administration, a Division of Building Services, a Division of~~

~~Mechanical Maintenance and Operations, a~~]

3. Division of Real ***Properties;***[~~Property, and a~~]

4. Division of Historic Properties***; and***

5. ***Division of Surplus Properties.***

(e) ***Each division***[~~, each of which~~] shall be headed by a ***division*** director appointed by the secretary, subject to the approval of the Governor, and responsible to the commissioner ***of the Department for Facilities and Support Services***. The commissioner shall provide for the distribution of the department's work among the divisions within the department.

(f) The Division of Surplus Properties shall be responsible for the disposition of all personal property of the state declared surplus. The division shall be the single state agency of the Commonwealth of Kentucky that may receive, warehouse, and distribute surplus property under the Federal Property and Administrative Services Act of 1949, as amended, and any other federal law relating to the disposal of surplus federal property to the states and political subdivisions within the states. The division shall comply with federal laws and regulations in the administration of surplus property received through federal agencies. The division director may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to comply with minimum standards established by federal laws and regulations governing disposal of surplus federal property and to implement the fee or service charge provisions contained in this paragraph. The division director may establish, charge, and collect from donees of federal surplus property a fair and reasonable fee or service charge to defray the cost of operating the surplus property disposal program. The fees shall be deposited in a trust and agency account in the State Treasury to the credit of the Division of Surplus Properties.

(2) In conjunction with the responsibilities listed in subsection (1) of this section, the Department for Facilities ***and Support Services***[~~Management~~] shall have the following duties:

(a) Establish policies to ensure efficient utilization of state property by:

1. Requiring the development of guidelines which set forth space standards and criteria for determining the space needs of state agencies, and maintaining an inventory which tracks the agencies' compliance with those standards and criteria; and

2. Requiring certification of compliance, or justification for exceptions, as a criterion for approval of additional space;

(b) Establish policies to ensure effective planning for state facilities by:

1. Developing a long-range plan for the Frankfort area, with priority on reducing dependency on leased space and encouraging the consolidation of agencies' central offices into single locations, and shared offices for agencies with similar functions; and

2. Developing long-range plans for housing state agencies in metropolitan areas, with priority on centralization of services and coordination of service delivery systems; and

3. Encouraging executive branch agencies to expand long-range planning efforts, consistent with the policies of the Capital Planning Advisory Board; and

4. Supporting long-range planning for a statewide information technology infrastructure to more efficiently deliver state government services;

(c) Establish priorities to allow least-cost financing of state facilities by:

1. Initiating policies which authorize the state to use innovative methods to lease, purchase, or construct necessary facilities; and

2. Requiring cost analysis to determine the most effective method of meeting space needs, with consideration for ongoing operations and initial acquisition; and

(d) Implement and maintain a comprehensive real property and facilities management database to include all state facilities and land owned or leased by the executive branch agencies, including any postsecondary institution. All state agencies and postsecondary institutions shall work cooperatively with the Department for Facilities ***and Support Services***[~~Management~~] to implement and maintain the database.

(3) The Department for Facilities ***and Support Services***[~~Management~~] shall develop plans for the placement of computing and communications equipment in all facilities owned or leased by state government. As part of this planning process, the department shall:

(a) Provide adequate site preparation in all state-owned facilities and require the same of those from whom the state leases space as part of the lease agreement;

(b) Fund a minimum level of site preparation for computing and communications in each new state-owned facility; and

(c) As new office sites are developed, or existing ones undergo renovation, consider the placement of shareable high-cost, high-value facilities at strategic locations throughout the state. These facilities may include video teleconference centers, optical scanning and storage services, and gateways to high-speed communication networks.

Section 18. KRS 42.0271 is repealed and reenacted as KRS 42.430 and amended to read as follows:

(1) To honor those Kentuckians who proudly served their country during the Vietnam War but remain unaccounted for, the Department of Veterans' Affairs shall update the plaque at the base of the Freedom Tree near the Floral Clock on the grounds of the New Capitol Annex to contain the names of Kentucky Vietnam War POW/MIAs from the most recent official accounting available from the United States Department of Defense. The plaque shall also contain a depiction of the POW/MIA flag of the National League of Families of American Prisoners of War and Missing in Southeast Asia.

(2) The Department of Veterans' Affairs shall be responsible for the design of the new plaque required by subsection (1) of this section, and the plaque shall be paid for by the Department of Veterans' Affairs. The Department of Veterans' Affairs may receive appropriations, gifts, grants, federal funds, and any other funds, both public and private, to defray the cost of updating the plaque.

(3) The Department of Facilities ***and Support Services***[~~Management~~] shall be responsible for preparing the base for the updated plaque, and for installing the plaque. The Department of Facilities ***and Support Services***[~~Management~~] shall be reimbursed the cost of the installation by the Department of Veterans' Affairs. The Department of Facilities ***and Support Services***[~~Management~~] shall also be responsible for the routine maintenance of the Freedom Tree, the memorial plaque, and the grounds surrounding the tree and plaque.

Section 19. KRS 131.020 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~]***, headed by a commissioner appointed by the secretary with the approval of the Governor,*** shall be organized into the following functional units:

(a) ***Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing support to the commissioner's office; managing the department's legislative efforts, including developing and drafting proposed tax legislation, coordinating review of proposed legislation, and coordinating development of administrative regulations; providing technical support and research assistance to all areas of the department; performing studies, surveys, and research projects to assist in policy-making decisions; and performing various miscellaneous duties, including working on special projects and conducting training;***

(b) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:

1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;

2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and

3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;

[~~Office of the Secretary. The Office of the Secretary shall include the Office of the Taxpayer Ombudsman, the Office of Financial and Administrative Services, principal assistants and other personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of the office;~~

~~(b) Office of Financial and Administrative Services. The Office of Financial and Administrative Services shall be headed by an executive director. The functions and duties of the office shall include personnel services, administrative support, preparation and administration of the budget, training, and asset management;~~]

(c) Office of ***the*** Taxpayer Ombudsman. The Office of ***the*** Taxpayer Ombudsman shall be headed by ***an executive director, functioning as the***[~~a~~] taxpayer ombudsman as established by KRS 131.051(1) ***and KRS 131.071, who shall report to the commissioner***. The functions and duties of the office shall consist of those established by KRS 131.071;

(d) [~~Department of Law. The Department of Law shall be headed by a commissioner. The functions and duties of the department shall include establishing Revenue Cabinet tax policies, providing information to the public, conducting tax research, collecting delinquent taxes, conducting conferences, administering taxpayer protests, issuing final rulings, administering all activities relating to assessments issued pursuant to KRS 138.885, 139.185, 139.680, 141.340, 142.357, and 143.085, enforcing the criminal laws of the Commonwealth involving revenue and taxation, and representing the cabinet in legal and administrative actions. The Department of Law shall consist of the divisions of legal services, protest resolution, tax policy, collections, and research;~~

~~(e)~~]***Office***[~~Department~~] of Property Valuation. The ***Office***[~~Department~~] of Property Valuation shall be headed by ***an*** *executive director who shall report directly to the*~~[a]~~ commissioner. The functions and duties of the *office*~~[department]~~ shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering tangible and intangible personal property taxes, and collecting delinquent taxes. The *Office*~~[Department]~~ of Property Valuation shall consist of the Divisions of*:*

1. Local Valuation, ***which shall oversee the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;***

2. State Valuation, ***which shall administer all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program;*** and

3. ***Minerals Taxation and GIS Services, which shall administer the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS)***~~[Technical Support]~~;

(e) ***Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:***

1. ***Division of Sales and Use Tax, which shall administer the sales and use tax; and***

2. ***Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;***

(f) ***Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:***

1. ***Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and***

2. ***Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and***

(g) ***Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.***

~~[(f) Department of Tax Administration. The Department of Tax Administration shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, conducting audits, reviewing audits, rendering taxpayer assistance, and collecting delinquent taxes. The Department of Tax Administration shall consist of the Divisions of Field Operations, Revenue Operations, and Compliance and Taxpayer Assistance; and~~

~~(g) Department of Information Technology. The Department of Information Technology shall be headed by a commissioner. The functions and duties of the department shall include the development and maintenance of technology and information management systems in support of all units of the cabinet. The Department of Information Technology shall consist of the Division of Systems Planning and Development and the Division of Technology Infrastructure Support.]~~

(2) The functions and duties of the *department*~~[cabinet]~~ shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the *department*~~[cabinet]~~ shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the *department*~~[cabinet]~~, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) ***The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.***

(4) Except as provided in KRS 131.190(4), the *department*~~[cabinet]~~ shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.

(5) ***Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.***

Section 20. KRS 131.071 is amended to read as follows:

(1) There is hereby created and established within the *Department of* Revenue~~[Cabinet]~~ an Office of Taxpayer Ombudsman to be staffed with a taxpayers' rights advocate and such other support personnel as may be deemed necessary to carry out the spirit and the specific purposes of KRS 131.041 to 131.081.~~[For administrative and budgetary purposes, the Office of~~

~~Taxpayer Ombudsman shall be attached to the Office of the Secretary of Revenue.~~]

(2) The taxpayer ombudsman shall be a person with either no less than five (5) years of tax administration experience at a supervisory or management level or no less than ten (10) years of tax administration experience with at least five (5) years of experience working directly in the Office of Taxpayer Ombudsman. The taxpayer ombudsman shall possess a broad general knowledge of the tax laws, regulations, systems, and procedures administered or utilized by the ***department***[~~cabinet~~].

(3) The taxpayer ombudsman shall:

(a) Coordinate the resolution of taxpayer complaints and problems if so requested by a taxpayer or his representative.

(b) Provide recommendations to the ***department***[~~cabinet~~] for new or revised informational publications and recommend taxpayer and ***department***[~~cabinet~~] employee education programs needed to reduce or eliminate errors or improve voluntary taxpayer compliance.

(c) Provide recommendations to the ***department***[~~cabinet~~] for simplification or other improvements needed in tax laws, regulations, forms, systems, and procedures to promote better understanding and voluntary compliance by taxpayers.

(d) At least annually, on or before October 1, prepare and submit a report to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] summarizing the activities of the Office of Taxpayer Ombudsman during the immediately preceding fiscal year describing any recommendations made pursuant to paragraphs (b) and (c) of this subsection, including the progress in implementing such recommendations, and providing such other information as the taxpayer ombudsman deems appropriate relating to the rights of Kentucky taxpayers.

Section 21. KRS 11.501 is amended to read as follows:

The General Assembly finds and declares that:

(1) The establishment of the position of the ***executive director of the Commonwealth Office of Technology, appointed by the secretary of the Finance and Administration Cabinet with the approval of the Governor,***[~~Chief Information Officer~~] as the Commonwealth's single point of contact and spokesperson for all matters related to information technology and resources, including policies, standard setting, deployment, strategic and tactical planning, acquisition, management, and operations is necessary and in keeping with the industry trends of the private and public sectors;

(2) The appropriate use of information technology by the Commonwealth can improve operational productivity, reduce the cost of government, enhance service to customers, and make government more accessible to the public;

(3) Government-wide planning, investment, protection, and direction for information resources must be enacted to:

(a) Ensure the effective application of information technology on state business operations;

(b) Ensure the quality, security, and integrity of state business operations; and

(c) Provide privacy to the citizens of the Commonwealth;

(4) The Commonwealth must provide information technology infrastructure, technical directions, and a proficient organizational management structure to facilitate the productive application of information technology and resources to accomplish programmatic missions and business goals;

(5) Oversight of large scale and government statewide systems or projects is necessary to protect the Commonwealth's investment and to ensure appropriate integration with existing or planned systems;

(6) A career development plan and professional development program for information technology staff of the executive branch is needed to provide key competencies and adequate on-going support for the information resources of the Commonwealth and to ensure that the information technology staff will be managed as a Commonwealth resource;

(7) The Commonwealth is in need of information technology advisory capacities to the Governor and the agencies of the executive cabinet;

(8) Appropriate public-private partnerships to supplement existing resources must be developed as a strategy for the Commonwealth to comprehensively meet its spectrum of information technology and resource needs;

(9) Technological and theoretical advances in information use are recent in origin, immense in scope and complexity, and change at a rapid rate, which presents Kentucky with the opportunity to provide higher quality, more timely, and more cost-effective government services to ensure standardization, interoperability, and interconnectivity;

(10) The sharing of information resources and technologies among executive branch state agencies is the most cost-effective method of providing the highest quality and most timely government services that would otherwise be cost-prohibitive;

(11) The ability to identify, develop, and implement changes in a rapidly moving field demands the development of mechanisms to provide for the research and development of technologies that address systems, uses, and applications; and

(12) The exercise by the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~] of powers and authority conferred by KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 shall be deemed and held to be the performance of essential governmental functions.

Section 22. KRS 11.505 is amended to read as follows:

(1) There is hereby created within the ***Finance and Administration Cabinet***[~~Office of the Governor~~] an agency of state government known as the ***Commonwealth Office of Technology***[~~Governor's Office for Technology~~].

(2) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall be headed by ***an executive director appointed by the secretary of the Finance and Administration Cabinet. Duties and functions of the executive director shall include those***[~~the chief information officer for the Commonwealth~~] established in KRS 11.511.

(3) The ***Commonwealth Office of Technology***[~~Governor's Office for Technology~~] shall consist of the following ***four (4)***[~~ six (6) executive~~] offices, each headed by an executive director ***and organized into divisions headed by a division director***:

(a) Office of ***the 911 Coordinator, which shall be headed by an executive director who shall be appointed by the Governor subject to confirmation by the Senate, from a list of no more than three (3) candidates recommended by the Commercial Mobile Radio Service Emergency Telecommunications Board. The executive director shall serve at the pleasure of the Governor. Vacancies shall be filled in the same manner as the original appointment. The Office of the 911 Coordinator shall have the duties and responsibilities established in Section 24 of this Act***[~~Geographic Information~~];

(b) ***Office of Enterprise Information Technology Policy and Planning, which shall consist of the following divisions:***

1. Division of Enterprise Architecture;

2. Division of Relationship and Service Management;

3. Division of Geographic Information; and

4. Division of Information Technology Contract and Asset Management[~~Office of Human Resource Management and Development~~];

(c) [~~Office of Administrative Services, consisting of the:~~

~~1. Division of Financial and Business Management; and~~

~~2. Division of Asset Management;~~

~~(d) Office of Policy and Customer Relations, consisting of the:~~

~~1. Division of Planning and Architecture;~~

~~2. Division of Relationship Management; and~~

~~3. Division of Information Technology Training;~~

~~(e)~~]Office of Infrastructure ***Services***[~~Service~~], consisting of the:

1. Division of ***Infrastructure***[~~End User~~] Support;

2. Division of Security Services;

3. Division of Computing Services;***and***

4. Division of Communication Services; and

[~~5. Division of Information Technology Operations;~~]

(d)[~~(f)~~] Office of Consulting and Project Management, consisting of the:

1. Division of Centers of Expertise;

2. [~~Division of Project Office and Integration;~~

~~3.~~]Division of Human Services Systems;

3.[~~4.~~] Division of Financial Systems;

4.[~~5.~~] Division of Transportation Systems; ***and***

5.[~~6.~~] Division of[~~ Workforce Development and~~] General Government Systems[~~; and~~

~~(g) Office of General Counsel~~].

(4) Executive directors and division directors appointed under this section shall be appointed by the secretary with the approval of the Governor.

Section 23. KRS 11.511 is amended to read as follows:

(1) [~~There is hereby established a position of chief information officer for the Commonwealth. This position shall be exempt from the classified service under KRS 18A.115 and from the salary limitations of KRS 64.640, and shall be bonded commensurate with cabinet secretaries under KRS 62.160. The chief information officer shall be appointed by the Governor and serve in the Governor's Executive Cabinet. The chief information officer shall report to the secretary of the Governor's cabinet concerning his or her responsibilities to provide direction, stewardship, leadership, and general oversight of information technology and information resources.~~

~~(2)~~]The ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~] shall be the principal adviser to the Governor and the executive cabinet on information technology policy, including policy on the acquisition and management of information technology and resources.

(2)[~~(3)~~] The ***executive director***[~~chief information officer~~] shall carry out functions necessary for the efficient, effective, and economical administration of information technology and resources within the executive branch. Roles and duties of the ***executive director***[~~chief information officer~~] shall include but not be limited to:

(a) Assessing, recommending, and implementing information technology governance and organization design to include effective information technology personnel management practices;

(b) Integrating information technology and resources plans with agency business plans;

(c) Overseeing shared Commonwealth information technology resources and services;

(d) Performing as the focal point and representative for the Commonwealth in information technology and related areas with both the public and private sector;

(e) Establishing appropriate partnerships and alliances to support the effective implementation of information technology projects in the Commonwealth;

(f) Identifying information technology applications that should be statewide in scope, and ensuring that these applications are not developed independently or duplicated by individual state agencies of the executive branch;

(g) Establishing performance measurement and benchmarking policies and procedures;

(h) Preparing annual reports and plans concerning the status and result of the state's specific information technology plans and submitting these annual reports and plans to the Governor and the General Assembly; and

(i) Managing the ***Commonwealth Office of Technology***[~~Governor's Office for Technology~~] and its budget.

SECTION 24. A NEW SECTION OF KRS 11.501 to 11.517 IS CREATED TO READ AS FOLLOWS:

The Office of the 911 Coordinator shall have the following duties and responsibilities:

(1) Assist state and local government agencies in their efforts to improve and enhance 911 systems in Kentucky, including:

(a) Providing consultation to local elected officials, 911 coordinators, and board members; and

(b) Providing consultation to communities with basic 911 systems that are updating their facilities, equipment, or operations;

(2) Develop and provide educational forums and seminars for the public safety community;

(3) Develop standards and protocols for the improvement and increased efficiency of 911 services in Kentucky; and

(4) Administer the provisions of KRS 65.7621 to 65.7643 relating to commercial mobile radio service emergency telecommunications.

Section 25. KRS 7B.080 is amended to read as follows:

(1) The operation of the center shall be funded from the restricted agency fund established in subsection (3) of this section.

(2) There is hereby established a fiduciary fund to be entitled the Kentucky Long-Term Policy Research Center fund. The fund may receive appropriations, gifts, grants, and federal funds. Moneys in the fund shall not lapse back to the General Fund at the end of any fiscal year. Moneys in the fund shall be invested by the Office of Financial Management ***within the Office of the Controller***, consistent with the provisions of KRS Chapter 42.

(3) A restricted agency fund account is established to receive the interest on the fiduciary fund and any other resources made available to the center. Interest from the fiduciary fund shall be credited to the restricted agency fund account on a monthly basis for the center's operations. Moneys in the account shall be invested by the Office of Financial Management ***within the Office of the Controller***, consistent with the provisions of KRS Chapter 42.

(4) Any appropriation by the General Assembly to the fiduciary fund shall remain intact and shall not be available to the board, and should the center and its functions terminate, the principal and any remaining interest from other accumulated funds shall revert to the general fund of the Commonwealth or to the donor.

Section 26. KRS 11.026 is amended to read as follows:

(1) As used in this section, "state curator" means the director of the Division of Historic Properties within the Department ***for Facilities and Support Services***[~~ of Facilities Management~~] in the Finance and Administration Cabinet with responsibilities for the preservation, restoration, acquisition, and conservation of all decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments, and other aesthetic materials that have been acquired, donated, loaned, and otherwise obtained by the Commonwealth of Kentucky for the Executive Mansion, the Old Governor's Mansion, the New State Capitol, and other historic properties under the control of the Finance and Administration Cabinet.

(2) The Historic Properties Advisory Commission is established to provide continuing attention to the maintenance, furnishings, and repairs of the Executive Mansion, Old Governor's Mansion, and New State Capitol. The commission shall be attached to the Finance and Administration Cabinet for administrative purposes.

(3) The commission shall consist of fourteen (14) members. It is recommended that one (1) shall be the state curator, one (1) shall be the director of the Kentucky Historical Society, one (1) shall be a resident of Franklin County with experience in

restoration, one (1) shall be the director of the Executive Mansion, one (1) shall be the director of the Old Governor's Mansion, and the remainder of the membership shall be selected from the state-at-large from persons with experience in historical restoration.

(4) The officers of the commission shall consist of a chairman, who shall be appointed by the Governor, and a secretary, who shall be responsible for the keeping of the records and administering the directions of the commission. The state curator of the Commonwealth of Kentucky shall serve as the secretary of the commission. A member of the Governor's family may serve as an honorary member of the commission. A simple majority of the membership shall constitute a quorum for the transaction of business by the commission.

(5) The public members of the commission shall be appointed by the Governor and shall serve terms of four (4) years except that of the members initially appointed, two (2) members shall serve terms of one (1) year; two (2) members shall serve terms of two (2) years; one (1) member shall serve a term of three (3) years; and one (1) member shall serve a term of four (4) years. The director of the Historical Society and director of the Executive Mansion shall serve on the commission in an ex officio capacity. The persons holding the offices of director of the Historical Society, director of the Executive Mansion and state curator shall serve terms concurrent with holding their respective offices.

(6) Each commission member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

(7) There is established in the State Treasury a historic properties endowment trust fund which shall be administered by the director of the Division of Historic Properties under the supervision of the Commissioner of the Department for Facilities ***and Support Services***~~[Management]~~. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon warrant of the secretary of finance and administration. The fund shall be used for carrying out the functions of the Division of Historic Properties. The Division of Historic Properties may publish written material pertaining to historic properties of the state and charge and collect a reasonable fee for any such publications. The proceeds shall be deposited to the credit of the fund and after paying the costs of publication, the balance of the proceeds shall be used for purposes specified in KRS 11.027.

Section 27. KRS 11.027 is amended to read as follows:

(1) The commission shall meet at least every six (6) months and when called into session by the chairman at the request of the Governor, of any two (2) or more members of the commission, or on his own motion.

(2) The commission shall examine the Executive Mansion, the Old Governor's Mansion, and the New State Capitol at least once each year, and the commission shall have authority over any construction, repairs, structural restoration, or renovation of these properties. The commission shall supervise the maintenance of a current inventory of all furnishings in the properties and the inventory shall be maintained by the Division of Historic Properties in the Department for Facilities ***and Support Services***~~[Management]~~ in the Finance and Administration Cabinet. The Division of Historic Properties shall maintain inventory records relating to all such property of the state and no such property shall be disposed of except upon recommendation of the director of the Division of Historic Properties with advice of the Historic Properties Advisory Commission. The proceeds realized from the sale of any items shall be deposited in the historic properties endowment fund, established by KRS 11.026.

(3) The commission shall recommend, from time to time, on the needs for furnishings, maintenance, repair, or renovation of the Executive Mansion, the Old Governor's Mansion, and the New State Capitol; and the Department for Facilities ***and Support Services***~~[Management]~~ in the Finance and Administration Cabinet shall, from funds available, take the action recommended. The commission shall have final authority over articles placed in the properties and moneys spent on these buildings. The commission shall develop criteria for this display of objects on and for the use of the public areas of the basement and first and second floors of the New State Capitol and shall be consulted by the director of the Division of Historic Properties before objects are accepted for or removed from permanent display in the Capitol.

(4) The commission shall provide coordination and make arrangements for an orderly transition between outgoing and incoming chief executives.

Section 28. KRS 11.068 is amended to read as follows:

(1) There is created an agency of state government known as the Office of State Budget Director. The office shall be attached for administrative purposes to the Office of the Governor.

(2) The office shall include the following major organizational units:

   (a) The Office of State Budget Director, headed by the state budget director. The state budget director shall be appointed by the Governor pursuant to KRS 11.040 and shall serve, under direction of the Governor, as state budget director and secretary of the state planning committee. The office shall include such principal assistants and supporting personnel appointed pursuant to KRS Chapter 12 as may be necessary to carry out the functions of the office. The office shall have such duties, rights, and responsibilities as are necessary to perform, without being limited to, the following functions:

      1. Functions relative to the preparation, administration, and evaluation of the executive budget as provided in KRS Chapters 45 and 48 and in other laws, including but not limited to, capital construction budgeting, evaluation of state programs, program monitoring, financial and policy analysis and issue review, and

executive policy implementation and compliance;

2. Continuous evaluation of statewide management and administrative procedures and practices, including but not limited to, organizational analysis and review, economic forecasting, technical assistance to state agencies, forms control, and special analytic studies as directed by the Governor; and
3. Staff planning functions of the state planning committee and evaluation of statewide management and administrative practices and procedures.

(b) Governor's Office for Policy and Management, headed by the state budget director, who shall report to the Governor. The state budget director shall maintain staff employed pursuant to KRS Chapter 18A sufficient to carry out the functions of the office relating to state budgeting as provided in paragraph (a) of this subsection and state planning as provided in KRS Chapter 147, review of administrative regulations proposed by executive agencies prior to filing pursuant to KRS Chapter 13A and such other duties as may be assigned by the Governor.

(c) Governor's Office for Policy Research, headed by the state budget director. The Governor's Office for Policy Research shall assist the state budget director in providing policy research data, information, and analysis to the Governor on public policy issues that impact the Commonwealth. The state budget director shall identify and direct the research to be completed and provided by the office. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office.

(d) Governor's Office for Economic Analysis, headed by the state budget director, who shall report to the Governor. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office. The Governor's Office for Economic Analysis shall carry out the revenue estimating and economic analysis functions and responsibilities, including but not limited to the functions and responsibilities assigned to the Office of State Budget Director by KRS 48.115, 48.117, 48.120, 48.400, and 48.600. The Governor's Office for Economic Analysis shall perform the tax administrative function of using tax data to provide the ***Department of*** Revenue [~~Cabinet~~]with studies, projections, statistical analyses, and any other information that will assist the ***Department of*** Revenue[~~ Cabinet~~] in performing its tax administrative functions.

Section 29. KRS 11.200 is amended to read as follows:

(1) There is created the Commission on Small Business Advocacy. The commission shall be a separate administrative body of state government within the meaning of KRS 12.010(8).

(2) It shall be the purpose of the Commission on Small Business Advocacy to:

(a) Address matters of small business as it relates to government affairs;

(b) Promote a cooperative and constructive relationship between state agencies and the small business community to ensure coordination and implementation of statewide strategies that benefit small business in the Commonwealth;

(c) Coordinate and educate the small business community of federal, state, and local government initiatives of value and importance to the small business community;

(d) Create a process by which the small business community is consulted in the development of public policy as it affects their industry sector;

(e) Aid the small business community in navigating the regulatory process, when that process becomes cumbersome, time consuming, and bewildering to the small business community; and

(f) Advocate for the small business, as necessary when regulatory implementation is overly burdensome, costly, and harmful to the success and growth of small businesses in the Commonwealth.

(3) The Commission on Small Business Advocacy shall consist of thirty-one (31) members:

(a) The Governor, or the Governor's designee;

(b) The secretaries of the following cabinets, or their designees:

1. Economic Development;
2. Natural Resources and Environmental Protection;
3. ***Finance and Administration***[~~Revenue~~]; and
4. Transportation;

(c) The state director of the Small Business Development Centers in Kentucky;

(d) One (1) representative of each of the following organizations, appointed by the Governor from a list of three (3) nominees submitted by the governing bodies of each organization:

1. Associated Industries of Kentucky;
2. National Federation of Independent Business;
3. Kentucky Chamber of Commerce;
4. Kentucky Federation of Business and Professional Women's Club, Inc.;
5. Kentucky Retail Federation;

6. Professional Women's Forum;
7. Kentuckiana Minority Supplier Development Council;
8. Greater Lexington Chamber of Commerce;
9. Lexington chapter of the National Association of Women Business Owners;
10. Greater Louisville, Inc.;
11. Louisville chapter of the National Association of Women Business Owners;
12. Northern Kentucky Chamber of Commerce, Inc.;
13. Northern Kentucky - Greater Cincinnati chapter of the National Association of Women Business Owners;
14. Kentucky Association of Realtors;
15. Henderson - Henderson County Chamber of Commerce;
16. Kentucky Coal Council;
17. Kentucky Farm Bureau Federation; and
18. Kentucky Homebuilders Association;

(e) One (1) representative from small business from each of the following areas, appointed by the Governor:

1. A city of the second class;
2. A city of the third class;
3. A city of the fourth class; and
4. A city of the fifth class;

(f) One (1) representative who is a small business owner served by each of the following organizations, appointed by the Governor:

1. The Center for Rural Development; and
2. Community Ventures Corporation; and

(g) One (1) representative who is a small business owner under the age of thirty-five (35), appointed by the Governor.

(4) The terms of all members appointed by the Governor shall be for four (4) years, except that the original appointments shall be staggered so that seven (7) appointments shall expire at two (2) years, seven (7) appointments shall expire at three (3) years, and seven (7) appointments shall expire at four (4) years from the dates of initial appointment.

(5) The Governor shall appoint the chair and vice chair of the commission from the list of appointed members.

(6) The commission shall meet quarterly and at other times upon call of the chair or a majority of the commission.

(7) A quorum shall be a majority of the membership of the commission.

(8) Members of the commission shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(9) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the commission and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(10) The Commission on Small Business Advocacy shall be an independent agency attached to the Office of the Governor.

Section 30. KRS 11.507 is amended to read as follows:

(1) The roles and duties of the ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall include but not be limited to:

(a) Providing technical support and services to all executive agencies of state government in the application of information technology;

(b) Assuring compatibility and connectivity of Kentucky's information systems;

(c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;

(d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture, including implementing necessary management processes to assure full compliance with those directions, standards, and architecture. This specifically includes, but is not limited to, directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies;

(e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;

(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;

(g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;

(h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The ***executive director***[~~chief information officer~~] is authorized to grant or withhold approval to initiate these projects;

(i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;

(j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;

(m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;

(n) Providing staff support and technical assistance to the Geographic Information Advisory Council, the Kentucky Information Technology Advisory Council, and the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky; and

(o) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.

(2) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology may:

(a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the ***executive director***[~~chief information officer~~] finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;

(b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102;

(c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;

(d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102;

(e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;

(f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable; and

(g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:

1. New and emerging technologies as approved by the ***executive director***[~~chief information officer~~] or her or his designee; or

2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.

(3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

Section 31. KRS 11.509 is amended to read as follows:

(1) To accomplish the work of the ***Commonwealth Office of***[~~Governor's Office for~~] Technology, all organizational units and administrative bodies, as defined in KRS 12.010, and all members of the state postsecondary education system, as defined in KRS 164.001, shall furnish the ***Commonwealth Office of***[~~Governor's Office for~~] Technology necessary assistance, resources, information, records, and advice as required.

(2) The provisions of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 shall not be construed to grant any authority over the judicial or legislative branches of state government, or agencies thereof, to the ***Commonwealth Office of***[~~Governor's Office for~~] Technology.

(3) The information, technology, personnel, agency resources, and confidential records of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System shall be excluded from the provisions of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 and shall not be under the authority of the ***Commonwealth Office of***[~~Governor's Office for~~] Technology.

Section 32. KRS 11.513 is amended to read as follows:

(1) There is hereby created the Kentucky Information Technology Advisory Council to:

(a) Advise the ***executive director of the Commonwealth Office of Technology***[~~chief information officer for the Commonwealth~~] on approaches to coordinating information technology solutions among libraries, public schools, local governments, universities, and other public entities; and

(b) Provide a forum for the discussion of emerging technologies that enhance electronic accessibility to various publicly funded sources of information and services.

(2) The Kentucky Information Technology Advisory Council shall consist of:

(a) The state budget director or a designee;

(b) The state librarian or a designee;

(c) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the Council on Postsecondary Education;

(d) Three (3) citizen members from the private sector with information technology knowledge and experience appointed by the Governor;

(e) Two (2) representatives of local government appointed by the Governor;

(f) One (1) representative from the area development districts appointed by the Governor from a list of names submitted by the executive directors of the area development districts;

(g) One (1) member of the media appointed by the Governor;

(h) The executive director of the Kentucky Authority for Educational Television;

(i) The chair of the Public Service Commission or a designee;

(j) Two (2) members of the Kentucky General Assembly, one (1) from each chamber, selected by the Legislative Research Commission;

(k) One (1) representative of the Administrative Office of the Courts;

(l) One (1) representative from the public schools system appointed by the Governor;

(m) One (1) representative of the Kentucky Chamber of Commerce; and

(n) The ***executive director of the Commonwealth Office of Technology***[~~chief information officer for the Commonwealth~~].

(3) Appointed members of the council shall serve for a term of two (2) years. Members who serve by virtue of an office shall serve on the council while they hold the office.

(4) Vacancies on the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(5) Members shall receive no compensation but shall receive reimbursement for actual and necessary expenses in accordance with travel and subsistence requirements established by the Finance and Administration Cabinet.

Section 33. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~] on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the ***Finance and Administration***~~[Revenue]~~ Cabinet or his designee;
5. The ***executive director of the Commonwealth Office of Technology***~~[chief information officer]~~ or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Development Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The ***chair shall be appointed by the Governor***~~[council shall select from its membership a chairman and any other officers it considers essential]~~. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 34. KRS 11.5161 is amended to read as follows:

The Kentucky Wireless Interoperability Executive Committee is hereby created to address communications interoperability, a homeland security issue which is critical to the ability of public safety first responders to communicate with each other by radio. The committee shall advise and make recommendations to the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~] regarding strategic wireless initiatives to achieve public safety voice and data communications interoperability.

Section 35. KRS 11.5163 is amended to read as follows:

(1) The ***executive director***[~~chief information officer~~] shall establish and implement a statewide public safety interoperability plan. This plan shall include the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The ***executive director***[~~chief information officer~~] shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The ***executive director***[~~chief information officer~~] shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the ***executive director***[~~chief information~~] officer for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.

(3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the ***executive director***[~~chief information officer~~], the Governor's Office for Policy and Management, and the General Assembly.

(4) The ***executive director***[~~chief information officer~~] shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.

(5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the ***executive director***[~~chief information officer~~] who shall serve as chair;

(b) The executive director of the Office ***of***[~~for~~] Infrastructure Services, ***Commonwealth Office of***[~~Governor's Office for~~] Technology;

(c) The ***executive director of the Office of the 911 Coordinator***[~~administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board~~];

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Division of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office for Security Coordination, Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(6) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(7) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(8) The committee shall be attached to the ***Commonwealth Office of***~~[Governor's Office for]~~ Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(9) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(10) The committee may establish additional working groups as determined by the committee.

Section 36. KRS 11.517 is amended to read as follows:

(1) The Geographic Information Advisory Council's duties shall include the following:

(a) Overseeing the development and adoption of policies and procedures related to geographic information and geographic information systems;

(b) Overseeing the development of a strategy for the implementation and funding of a statewide base map and geographic information system;

(c) Overseeing the development and recommending standards on geographic information and geographic information systems for inclusion in the statewide architecture;

(d) Overseeing the development and delivery of a statewide geographic information plan and annually reporting to the Governor, the General Assembly, the Judicial Branch, and the ***executive director of the Commonwealth Office of Technology***~~[chief information officer]~~;

(e) Overseeing the development of the geographic information systems training and education plan;

(f) Overseeing the assessment of state agency plans for geographic information systems standards compliance;

(g) Overseeing the development of operating policies and procedures for the management of the council and any standing or ad hoc committees and associated advisory groups;

(h) Promoting collaboration and the sharing of data and data development, as well as other aspects of geographic information systems; and

(i) Overseeing the implementation of a pilot project to study the advantages and resources of geographic information system technology.

(2) The ***Division***~~[Office]~~ of Geographic Information shall provide necessary staff support services to the council. All cabinets,

departments, divisions, agencies, and officers of the Commonwealth shall furnish the council necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

Section 37. KRS 11.550 is amended to read as follows:

(1) The Telehealth Board is created and placed for administrative purposes under the ***Commonwealth Office of***[~~Governor's Office for~~] Technology. This nine (9) member board shall consist of the:

(a) Chancellor, or a designee, of the medical school at the University of Kentucky;

(b) Chancellor, or a designee, of the medical school at the University of Louisville;

(c) Commissioner, or a designee, of the Department for Public Health;

(d) ***Executive director***[~~Chief information officer~~], or a designee, of the ***Commonwealth Office of***[~~Governor's Office for~~] Technology; and

(e) Five (5) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than three (3) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.

(2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.

(3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;

(b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville, and any other site that is operating as a telemedicine or telehealth site and that demonstrates its capability to follow the board's protocols and standards;

(c) Establish protocols and standards to be followed by the training centers and rural sites; and

(d) Maintain the central link for the network with the Kentucky information highway.

(4) The board shall, following consultation with the ***Commonwealth Office of***[~~Governor's Office for~~] Technology, recommend the processes and procedures for the switching and running of the telehealth network.

(5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.

(a) Data on utilization, performance, and quality of care;

(b) Quality assurance measures, including monitoring systems;

(c) The economic impact on and benefits to participating local communities; and

(d) Other matters related to telehealth at the discretion of the board.

(6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 38. KRS 15.060 is amended to read as follows:

Upon written request of the ***Department of*** Revenue[~~ Cabinet~~], the Attorney General shall:

(1) With the assistance of the Auditor of Public Accounts and the ***Department of*** Revenue[~~ Cabinet~~], investigate the condition of any unsatisfied claim, demand, account, and judgment in favor of the Commonwealth.

(2) When he believes that any fraudulent, erroneous or illegal fee bill, account, credit, charge or claim has been erroneously or improperly approved, allowed or paid out of the Treasury to any person, institute the necessary actions to recover the same. To this end he may employ assistants and experts to assist in examining the fee bills, accounts, settlements, credits and claims, and the books, records and papers of any of the officers of the Commonwealth.

(3) Institute the necessary actions to collect and cause the payment into the Treasury of all unsatisfied claims, demands, accounts and judgments in favor of the Commonwealth, except where specific statutory authority is given the ***Department of*** Revenue[~~ Cabinet~~] to do so.

(4) Comply with KRS 48.005, if any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any legal action, including an ex rel. action in which the Attorney General has entered an appearance or is a party under statutory or common law authority.

Section 39. KRS 15.105 is amended to read as follows:

(1) The Attorney General, with the approval of the head of the cabinet involved**,** shall appoint assistant attorneys general for the Transportation Cabinet ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~].

(2) The assistant attorneys general and additional attorneys provided for in subsection (1) of this section shall each be a person admitted to the practice of law by the Supreme Court of this Commonwealth and shall qualify by taking the oath of office. They shall be paid out of the appropriation or other funds of the respective agency to which they are assigned.

Section 40. KRS 15A.040 is amended to read as follows:

(1) The Criminal Justice Council shall advise and recommend to the Governor and the General Assembly policies and direction for long-range planning regarding all elements of the criminal justice system. The council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall:

(a) Make recommendations to the justice secretary with respect to the award of state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;

(b) Conduct comprehensive planning to promote the maximum benefits of grants;

(c) Develop model criminal justice programs;

(d) Disseminate information on criminal justice issues and crime trends;

(e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;

(f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;

(g) Provide technical assistance to all criminal justice agencies;

(h) Review and evaluate proposed legislation affecting criminal justice; and

(i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.

(2) Membership of the Criminal Justice Council shall consist of the following:

(a) The secretary of the Justice Cabinet or his designee;

(b) The director of the Administrative Office of the Courts or his designee;

(c) The Attorney General or his designee;

(d) Two (2) members of the House of Representatives as designated by the Speaker of the House;

(e) Two (2) members of the Senate as designated by the President of the Senate;

(f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;

(g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;

(h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;

(i) The public advocate or his designee;

(j) The president of the Kentucky Sheriffs' Association;

(k) The commissioner of state police or his designee;

(l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;

(m) The president of the Kentucky Association of Chiefs of Police;

(n) A member of the Prosecutors Advisory Council as chosen by the council;

(o) The Chief Justice or a justice or judge designated by him;

(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;

(q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;

(r) One (1) member of the Circuit Clerks' Association;

(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;

(t) One (1) District Judge, designated by the Chief Justice;

(u) One (1) Circuit Judge, designated by the Chief Justice;

(v) One (1) Court of Appeals Judge, designated by the Chief Justice;

(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders;

(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor;

(y) The commissioner of the Department of Juvenile Justice or his designee;

(z) The commissioner of the Department of Corrections, or his designee;

(aa) The commissioner of the Department of Criminal Justice Training or his designee; and

(ab) The ***executive director of the Commonwealth Office of Technology***[~~Governor's chief information officer~~].

(3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.

(4) The council shall meet at least once every three (3) months.

(5) The council may hold additional meetings:

(a) On the call of the chairman;

(b) At the request of the Governor to the chairman; or

(c) At the written request of the members to the chairman, signed by a majority of the members.

(6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.

(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.

(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:

(a) Uniform Criminal Justice Information System committee;

(b) Committee on sentencing; and

(c) Penal Code committee.

(9) The council's administrative functions shall be performed by a full-time executive director, who shall also serve as the executive director of the office of the Criminal Justice Council, appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

Section 41. KRS 16.220 is amended to read as follows:

(1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. The Kentucky State Police shall transfer firearms that are to be sold to the Department of Finance, Division of Surplus ***Properties***[~~Property~~], for sale. Proceeds of the sale shall be transferred to the account of the Department for Local Government for use as provided in subsection (3) of this section. Prior to the sale of any firearm, the Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.

(2) The Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The Kentucky State Police shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.

(3) The proceeds of firearms sales shall be utilized by the Department for Local Government to provide grants to city, county, charter county, and urban-county police departments, university safety and security departments organized pursuant to KRS 164.950 and sheriff's departments for the purchase of body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments or for the purchase of firearms or ammunition. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.

(4) The Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act, and is not properly registered in the national firearms transfer records for

those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.

Section 42. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies and the courts. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set by the ***Commonwealth Office of***[~~Governor's Office for~~] Technology are required, the ***executive director of the Commonwealth Office of Technology***[~~Commonwealth's chief information officer~~] shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the ***executive director of the Commonwealth Office of Technology***[~~Governor's chief information officer~~], who shall chair the committee.

(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.

(5) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.

(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.

(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.

(8) All criminal justice agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(9) The committee shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the committee.

(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the committee.

(11) Any criminal justice agency or officer that does not participate in the criminal justice information system may be denied access to state and federal grant funds.

Section 43. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the

Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky Horse Racing Authority;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education;

(aa) ***Executive director of the Commonwealth Office of Technology***[~~Chief information officer of the Commonwealth~~];

(ab) Employees of the Kentucky Commission on Community Volunteerism and Service; and

(ac) Federally funded time-limited employees as defined in KRS 18A.005.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they

were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

(7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

(8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

Section 44. KRS 29A.040 is amended to read as follows:

(1) A list of all persons over the age of eighteen (18) and holding valid driver's licenses which were issued in the county, of the names and addresses of all persons filing Kentucky resident individual income tax returns which show an address in the county, and of all persons registered to vote in the county shall constitute a master list of prospective jurors for a county.

(2) The Administrative Office of the Courts shall at least annually acquire an electronic copy of the driver's license list from the Transportation Cabinet, an electronic copy of the tax roll described in subsection (1) of this section from the ***Department of*** Revenue[~~ Cabinet~~], and an electronic copy of the voter registration lists from the State Board of Elections. In addition, the Administrative Office of the Courts shall at least annually acquire a listing of deceased persons from the Department of Vital Statistics. The Transportation Cabinet, the ***Department of*** Revenue[~~ Cabinet~~], the State Board of Elections, and the Department of Vital Statistics and those public officers or employees having custody, possession, or control of any of the lists required under this section shall annually furnish a copy of the list to the Administrative Office of the Courts without charge.

(3) The Administrative Office of the Courts shall merge the lists required by subsections (1) and (2) of this section in a manner designed to create an accurate listing of all persons eligible for jury service. The Administrative Office of the Courts may purge names from the master list upon reasonable evidence of death, change of state residence, change of county residence, or any other reason causing a person to be ineligible for jury service as found in KRS 29A.080.

(4) Any person who comes into possession of the Kentucky income tax names and addresses as provided in this section shall be bound by the confidentiality provisions of KRS 131.190.

Section 45. KRS 40.540 is amended to read as follows:

(1) If a claim is approved by the administrator or finally approved upon resort to the board of review, the administrator shall promptly certify to the secretary of the Finance and Administration Cabinet the names and addresses of persons found entitled to be paid, as shown in the application, and the amount payable to each.

(a) A copy of each such certificate shall be sent to the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~], who shall promptly ascertain from the records of his agency whether any person proposed to be paid a bonus is delinquent in the payment of any tax liability to the Commonwealth. No delinquency shall be deemed to exist as to any asserted tax liability which is the subject of a bona fide dispute. If any delinquency be found to exist, the ***commissioner***[~~secretary~~] of revenue shall, within three (3) working days after this receipt of the certificate, furnish the details thereof to the secretary of finance and administration; and if no advice of tax delinquency is received by the secretary of finance and administration before the end of the fourth working day after his receipt of certification from the administrator, he shall, for the purposes of KRS 40.410 to 40.560, conclusively presume that no delinquency of tax liability to the Commonwealth exists, but such presumption shall apply only to the existence or absence of a set-off by the Commonwealth against a certified claim for a bonus, and shall not alter the facts as between the Commonwealth and any taxpayer.

(b) If no advice of tax delinquency is received within such allowed time, the secretary of finance and administration may approve payment in accordance with the certificate of the administrator, and may immediately draw a warrant on the State Treasury for a check in payment, except that no warrant shall be drawn by the secretary until sufficient funds have become available to pay the bonus authorized by KRS 40.410 to 40.560.

(c) Upon receipt of such warrant the State Treasurer shall issue a check in accordance therewith payable from funds made available for payment of the bonus authorized by KRS 40.410 to 40.560, and the same shall promptly be mailed to the payee thereof at the address shown in the certificate.

(2) If the secretary of finance and administration shall, within the allowed time, receive advice from the ***commissioner***[~~secretary~~] of revenue of the existence of a delinquency on the part of any person having an approved claim for a bonus, as to any tax liability to the Commonwealth, the secretary of finance and administration shall note the same on the certificate of the administrator, withhold payment, and forthwith send to the claimant by registered mail a notice of the asserted delinquency, and the amount thereof, and that it is proposed that the same be set off against the bonus payment.

(a) If the secretary of finance and administration receives no protest in his office within ten (10) working days after recording such notice, he shall conclusively presume that the proposed set-off is just, shall apply the amount thereof in reduction or extinguishment of the payment certified by the administrator, and shall advise the ***commissioner***[~~secretary~~] of revenue of the amount set off against the bonus, which advice shall be noted by the ***commissioner***[~~secretary~~] of revenue on the records of his office as a credit upon the delinquent tax liability.

(b) If the tax set-off does not consume the entire amount of the bonus as certified by the administrator, the secretary shall draw a warrant upon the State Treasury for a check in the amount of the remainder, and upon receiving such check from the State Treasurer, shall send the same, together with advice of the set-off, by mail, to the payee at the address shown in the certificate of the director.

(3) If the secretary of finance and administration receives from the claimant a protest of the asserted tax delinquency, within the allowed time, the secretary shall withhold approval for payment, and shall refer the protest to the ***commissioner***[~~secretary~~] of revenue for disposition.

(4) If a tax set-off is made, and the claimant shall assert error with regard thereto, the exclusive remedy shall be by seeking refund from the ***commissioner***[~~secretary~~] of revenue.

Section 46. KRS 41.070 is amended to read as follows:

(1) Unless otherwise expressly provided by law, no receipts from any source of state money or money for which the state is responsible shall be held, used, or deposited in any personal or special bank account, temporarily or otherwise, by any agent or employee of any budget unit, to meet expenditures or for any other purpose. All receipts of any character of any budget unit, all revenue collected for the state, and all public money and dues to the state shall be deposited in state depositories in the most prompt and cost-efficient manner available. However in the case of state departments or agencies located outside Frankfort, and all state institutions, the Finance and Administration Cabinet may permit temporary deposits to be made to the accounts maintained by the agency, department, or institution in a bank which has been designated as a depository for state funds for a period not to exceed thirty (30) days, and may require that the money be forwarded to the State Treasury at the time and in the manner and form prescribed by the cabinet. Nothing in this section shall be construed as authorizing any representative of any agency, department, or institution to enforce or cash, even for the purpose of a deposit, any check or other instrument of value payable to the Commonwealth or any agency thereof.

(2) Each agency depositing its receipts directly with the State Treasurer shall do so in the manner approved by the State Treasurer as agent in charge of public fund deposits.

(3) The ***Department of*** Revenue[~~ Cabinet~~] may deposit receipts to the credit of the State Treasury directly with a depository designated by the Treasurer and utilized by the Commonwealth for its primary banking services. The State Treasurer, with the approval of the Finance and Administration Cabinet, may authorize other agencies to deposit receipts directly with a depository designated by the Treasury to the credit of the State Treasury if the Treasurer prescribes the manner in which the deposit is to be made, and the forms and reports to be filed with the Treasury Department. The Finance and Administration Cabinet shall prescribe the forms and reports to be filed with it when this type of deposit is made.

(4) Each department, agency, or other budget unit which receives funds to be deposited into the State Treasury shall maintain records to report adequately each amount received, from whom received, and date received. Agency records shall be easily reconcilable with the information forwarded to the State Treasurer.

Section 47. KRS 41.360 is amended to read as follows:

(1) Where any officer or employee of the state government or of any agency of the state government has authorized the State Treasurer to deduct from his compensation as such officer or employee a sum or sums for the purchase of United States Series E savings bonds, and thereafter, for any cause, has departed from such office or employment leaving unclaimed in the hands of the State Treasurer a sum arising from such deduction not equal to the amount for which such a bond may be purchased, the State Treasurer shall, within ninety (90) days after the date of the last deduction, mail to such officer or employee, at his last-known address as shown on the records of the Personnel Cabinet, a notice stating the sum held by the State Treasurer for such officer or employee, and requesting that he make claim for the same within six (6) months

thereafter. A duplicate of such notice, addressed to the officer or employee, shall at the same time be delivered to the state agency of which the person was an officer or employee. If, at the expiration of six (6) months from the date of mailing the letter, the officer or employee has not made claim for the sum due him, the sum shall, as of July 1 following the expiration of such six-months' period, be presumed abandoned.

(2) On or before September 1 of each year the State Treasurer shall report to the ***Department of*** Revenue[~~ Cabinet~~], in duplicate, a list of the sums presumed to be abandoned as of the preceding July 1, giving the name of the officer or employee and his last-known address. The ***Department of*** Revenue[~~ Cabinet~~] shall cause the report to be posted and published as provided in KRS 393.110. If, by November 15 following such posting and publication, the sums involved have not been claimed, the State Treasurer shall place the sums to the credit of the general fund in the State Treasury and shall report that fact to the ***Department of*** Revenue[~~ Cabinet~~]. Thereafter such sums shall have the same status as other property turned over to the ***Department of*** Revenue[~~ Cabinet~~] as provided in KRS 393.110, and the rights of any person to make claim for the same shall rest upon the same principles as the rights of other claimants of property presumed to be abandoned under the provisions of KRS Chapter 393.

Section 48. KRS 42.005 is amended to read as follows:

As used in KRS 42.010, unless the context requires otherwise:

(1) "Department" means ***a***[~~that~~] basic unit of administrative organization of ***the Finance and Administration Cabinet***[~~state government, by whatever name called,~~] designated by statute or by statutorily authorized executive action as a "department***.***" ***A department may contain offices, divisions, or both, that report to it***;

(2) ***"Office" means a basic unit of administrative organization of the Finance and Administration Cabinet. An office may or may not report directly to the secretary of the Finance and Administration Cabinet. An office may contain offices, divisions, or both, that report to it;***

(3) "Division" means a major branch of a department***, or office*** established by statute or by statutorily authorized administrative action;

(4)[~~(3)~~] "Administrative body" includes authority, board, bureau, interstate compact, commission, committee, conference, council,[~~ office~~] and any other form or organization in the executive branch of government, but does not include ***"office,"*** "department," "program cabinet" or "division";

(5)[~~(4)~~] "Program cabinet" means a group of departments, or departments and commissions, ***or departments and offices,*** or other administrative bodies, designated by statute or statutorily authorized executive action as a "program cabinet."

Section 49. KRS 42.010 is amended to read as follows:

As used in ***Sections 9, 10, and 17 of this Act***[~~KRS 42.023 to 42.025~~], unless the context requires otherwise, "state agency" means any state administrative body, department or division as defined by KRS 42.005.

Section 50. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

(1) State Property and Buildings Commission;

(2) [~~Kentucky Pollution Abatement Authority;~~

~~(3)~~]Kentucky Savings Bond Authority;

(3)[~~(4)~~] County Officials Compensation Board;

(4)[~~(5)~~] Kentucky Turnpike Authority;

(5)[~~(6)~~] State Investment Commission;

(6)[~~(7)~~] Kentucky Housing Corporation;

[~~(8) Governmental Services Center;~~]

(7)[~~(9)~~] Kentucky Tobacco Settlement Trust Corporation;

(8)[~~(10)~~] Kentucky River Authority; and

(9)[~~(11)~~] Eastern Kentucky Exposition Center Corporation.

Section 51. KRS 42.018 is amended to read as follows:

[~~(1) The Office of Management and Budget established within the Office of the Secretary by KRS 42.013 shall be responsible for the fiscal, personnel, and payroll functions of the cabinet.~~

~~(2)~~]The Office of Capital Plaza Operations[~~ established by KRS 42.014~~] shall:

(1)[~~(a)~~]Be responsible for the operation of the Capital Plaza Civic Center and related facilities in Frankfort, Kentucky; and

(2)[~~(b)~~] Provide administrative support to the Capital Development Committee created by KRS 45.001.

Section 52. KRS 42.409 is amended to read as follows:

As used in KRS 42.410 and 45.760, unless the context requires otherwise:

(1) "State total personal income" means the measure of all income received by or on behalf of persons in the Commonwealth, as most recently published in the Survey of Current Business by the United States Department of Commerce, Bureau of Economic Analysis.

(2) "Estimated state total personal income" means the personal income figure used by the Governor's Office for Economic Analysis to generate final detailed revenue estimates.

(3) "Total revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended.

(4) "Anticipated total revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended.

(5) "Available revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(6) "Anticipated available revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(7) "Total assessed value of property" means state total net assessed value of property for taxes due, as obtained from the ***Department of*** Revenue[~~ Cabinet~~].

(8) "Per capita" means per unit of population, where population figures are the most recent available from the University of Louisville, Kentucky State Data Center.

(9) "Appropriation-supported debt service" means the amount of an appropriation identified to be expended for debt service purposes in the executive budget recommendation, and the amount of an appropriation expended for debt services in a completed fiscal year.

(10) "Appropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is appropriated by the General Assembly.

(11) "Nonappropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is not appropriated by the General Assembly.

(12) "Statutorily dedicated receipts" means revenues credited to the general fund and road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account, which are required by an enacted statute to be used for a specific purpose. Statutorily dedicated receipts include, but are not limited to, the following:

    (a) Receipts credited to the general fund which are subject to KRS 42.450 to 42.495, KRS 278.130 to 278.150, or KRS 350.139;

    (b) Receipts credited to the road fund which are subject to KRS 175.505, KRS 177.320, KRS 177.365 to 177.369, KRS 177.9771 to 177.979; KRS 186.531, or KRS 186.535; and

    (c) Receipts credited to a restricted agency fund account in accordance with any applicable statute.

(13) "True interest cost" means the bond yield according to issue price without a reduction for related administrative costs, and is the same figure as the arbitrage yield calculation described in the United States Tax Reform Act of 1986.

Section 53. KRS 42.455 is amended to read as follows:

(1) There is established within the Department for Local Government a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following, but in no event shall grants obtained under this program be used for expenses related to administration of government:

    (a) Public safety, including law enforcement, fire protection, ambulance service, and other related services;

    (b) Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;

    (c) Public transportation, including mass transit systems, streets, and roads;

    (d) Health;

    (e) Recreation;

    (f) Libraries and educational facilities;

    (g) Social services for the poor, the elderly, and individuals with disabilities;

    (h) Industrial and economic development;

(i) Vocational education;

(j) Workforce training; and

(k) Secondary wood industry development.

(3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(5) The Department for Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(6) The Department for Local Government shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The department shall submit an annual report to the Governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(7) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department for Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of highways, roads, and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.

(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads, and streets shall file with the Transportation Cabinet such information and at intervals as the department shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

(9) The ***Department of*** Revenue~~[Cabinet]~~ shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; if the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

Section 54. KRS 42.500 is amended to read as follows:

(1) There shall be a State Investment Commission composed of the Governor who shall be chairman; the State Treasurer who shall be vice chairman and serve as chairman in the absence of the Governor; the secretary of the Finance and Administration Cabinet; and two (2) persons appointed by the Governor.

(2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.

(3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(4) The Governor, State Treasurer, and secretary of the Finance and Administration Cabinet shall each have the authority to designate, by an instrument in writing over his or her signature and filed with the secretary of the commission as a public record of the commission, an alternate with full authority to:

(a) Attend in the member's absence, for any reason, any properly convened meeting of the commission; and

(b) Participate in the consideration of, and vote upon, business and transactions of the commission.

Each alternate shall be a person on the staff of the appointing member or in the employ of the appointing member's state agency or department.

(5) Any designation of an alternate may, at the appointing member's direction:

(a) Be limited upon the face of the appointing instrument to be effective for only a specific meeting or specified business;

(b) Be shown on the face of the appointing instrument to be a continuing designation, for a period of no more than four (4) years, whenever the appointing member is unable to attend; or

(c) Be revoked at any time by the appointing member in an instrument in writing, over his or her signature, filed with the secretary of the commission as a public record of the commission.

(6) Any person transacting business with, or materially affected by, the business of the commission may accept and rely upon

a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of the designation, and, if it is of a continuing nature, whether and when the designation has been revoked. The joint certificate shall be made and delivered to the person requesting it within a reasonable time after it has been requested in writing, with acceptable identification of the business or transaction to which it refers and the requesting person's interest in the business or transaction.

(7) Any three (3) persons who are members of the commission or alternates authorized under subsections (4) and (5) of this section shall constitute a quorum and may, by majority vote, transact any business of the commission. Any three (3) members of the commission may call a meeting.

(8) The provisions of KRS 61.070 shall not apply to members of the commission.

(9) The commission shall have authority and may, if in its opinion the cash in the State Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:

(a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

1. United States Treasury;
2. Export-Import Bank of the United States;
3. Farmers Home Administration;
4. Government National Mortgage Corporation; and
5. Merchant Marine bonds;

(b) Obligations of any corporation of the United States government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;
2. Federal Farm Credit Banks;
    a. Bank for Cooperatives;
    b. Federal Intermediate Credit Banks; and
    c. Federal Land Banks;
3. Federal Home Loan Banks;
4. Federal National Mortgage Association; and
5. Tennessee Valley Authority obligations;

(c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;

(d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(e) Commercial paper rated in the highest category by a nationally recognized rating agency;

(f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(g) United States denominated corporate, Yankee, and Eurodollar securities, excluding corporate stocks, issued by foreign and domestic issuers, including sovereign and supranational governments, rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(h) Asset-backed securities rated in the highest category by a nationally recognized rating agency; and

(i) Shares of mutual funds, not to exceed ten percent (10%) of the total funds available for investment as described in subsection (9) of this section, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under Federal Investment Company Act of 1940, as amended;
2. The management company of the investment company shall have been in operation for at least five (5) years;
3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to this section; and

(j) State and local delinquent property tax claims which upon purchase shall become certificates of delinquency secured by interests in real property not to exceed twenty-five million dollars ($25,000,000) in the aggregate. For any certificates of delinquency that have been exonerated pursuant to KRS 132.220(5), the ***Department of*** Revenue[~~ Cabinet~~] shall offset the loss suffered by the Finance and Administration Cabinet against subsequent local distributions to the affected taxing districts as shown on the certificate of delinquency.

(10) The State Investment Commission shall promulgate administrative regulations for the investment and reinvestment of state funds in shares of mutual funds, and the regulations shall specify:

(a) The long and short term goals of any investment;
(b) The specification of moneys to be invested;
(c) The amount of funds which may be invested per instrument;
(d) The qualifications of instruments; and
(e) The acceptable maturity of investments.

(11) Any investment in obligations and securities pursuant to subsection (9) of this section shall satisfy this section if these obligations are subject to repurchase agreements, provided that delivery of these obligations is taken either directly or through an authorized custodian.

(12) Income earned from investments made pursuant to this section shall accrue to the credit of the investment income account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when the donor shall have designated the use to which the interest shall be placed. Except as otherwise provided by law, or by the obligations and covenants contained in resolutions and trust indentures adopted or entered into for state bond issues, interest earned from the investment of moneys appropriated to the capital construction accounts, trust and agency accounts, and trust and agency revolving accounts shall accrue to the capital construction investment income account. If the total general fund revenue receipts are less than the total revenue estimates for the general fund under KRS 48.120 and 48.130, the secretary of the Finance and Administration Cabinet, upon the recommendation of the state budget director, may direct the transfer of excess unappropriated capital construction investment income to the general fund investment income account. The amount of the transfer shall not exceed the amount of the shortfall in general fund revenues. If the capital construction investment income is less than that amount appropriated by the General Assembly, the secretary of the Finance and Administration Cabinet may, upon recommendation of the state budget director, direct the transfer of excess unappropriated general fund investment income to the capital construction investment income account. The transfer of general fund investment income revenues to the capital construction investment income account shall be made only when the actual general fund revenues are in excess of the revenue estimates under KRS 48.120 and shall be limited to the amount of the excess general fund revenues. The amount of the transfer shall not exceed the amount of the shortfall in the capital construction fund revenues.

(13) The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

(14) The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the administrative regulations mandated by KRS 42.525.

(15) Each member of the State Investment Commission, with the exception of the Governor, shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the State Treasurer.

Section 55. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the Office of the Controller. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; Kentucky Community and Technical College System; Kentucky Housing Corporation;[~~ Kentucky Pollution Abatement Authority;~~] Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; the Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 56. KRS 42.560 is amended to read as follows:

(1) There is established in the Treasury of the Commonwealth a trust fund to be known as the "Energy Assistance Trust Fund" referred to in KRS 42.560 to 42.572 as the "trust fund."

(2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect, any moneys as may be appropriated by the general fund, and any investment interest earned on the fund.

(3) The fund shall be managed by the state Office of Financial Management ***within the Office of the Controller*** and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund and all accumulated interest shall be disbursed over a period of time not exceeding ten (10) years from February 19, 1988. Interest accumulated during the 1987-88 fiscal year shall immediately be available for disbursement.

Fifty thousand dollars ($50,000) of the interest shall be allocated to the Legislative Research Commission for consultant costs for a study of energy conservation and weatherization programs as directed by the 1988 General Assembly. The remainder of the accumulated interest shall be made available to the Cabinet for Families and Children with fifty percent (50%) of the interest allocated to weatherization services to low-income households and fifty percent (50%) of the interest allocated to low-income energy assistance services. The funds to be available for expenditure in any fiscal year shall be appropriated by the General Assembly from the trust fund as provided in KRS 48.300.

Section 57. KRS 42.650 is amended to read as follows:

(1) The ***Division***[~~Office~~] of Geographic Information is hereby established in the Office of ***Enterprise Information Technology Policy and Planning within the Commonwealth Office of Technology in***[~~the Secretary of~~] the Finance and Administration Cabinet.

(2) The ***Division***[~~Office~~] of Geographic Information shall be headed by ***a division***[~~an executive~~] director, whose appointment is subject to KRS 12.050. The ***division***[~~executive~~] director may employ personnel, pursuant to the provisions of KRS Chapter 18A, as required to perform the functions of the office.

(3) The ***division***[~~office~~] may solicit, receive, and consider proposals for funding from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation. The ***division***[~~office~~] may also solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance.

(4) The ***division***[~~office~~] shall:

(a) Establish a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(b) Coordinate multiagency geographic information system projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(c) Provide access to both consulting and technical assistance, and education and training, on the application and use of geographic information technologies to state and local agencies;

(d) Maintain, update, and interpret geographic information and geographic information systems standards, under the direction of the council;

(e) Provide geographic information system services, as requested, to agencies wishing to augment their geographic information system capabilities;

(f) In cooperation with other agencies, evaluate, participate in pilot studies, and make recommendations on geographic information systems hardware and software;

(g) Assist the council with review of agency information resource plans and participate in special studies as requested by the council;

(h) Provide staff support and technical assistance to the Geographic Information Advisory Council; and

(i) Prepare proposed legislation and funding proposals for the General Assembly which will further solidify coordination and expedite implementation of geographic information systems.

(5) The ***division***[~~office~~] may promulgate necessary administrative regulations for the furtherance of this section.

Section 58. KRS 43.071 is amended to read as follows:

(1) The Auditor of Public Accounts shall annually audit each county clerk concerning:

(a) All receipts due from the collection of motor vehicle and motorboat registration fees, motor vehicle and motorboat licenses and other receipts due the clerk pertaining to motor vehicles and motorboats as prescribed in KRS Chapters 186, 186A and 235;

(b) All receipts due from the collection of motor vehicle usage tax as prescribed by KRS 138.460; and

(c) All receipts due from the collection of the ad valorem tax on motor vehicles and motorboats as prescribed by KRS 134.800.

These annual audits shall be completed by April 15 of the year following the year to be audited.

(2) The provisions of KRS 43.070 shall not apply to the separate and distinct duties imposed on the Auditor of Public Accounts pursuant to subsection (1) of this section. The audits specified in subsection (1) of this section shall be conducted prior to the audits mandated by KRS 43.070.

(3) Immediately upon completion of each audit, the Auditor of Public Accounts shall prepare a report of his findings noting any indebtedness to the Commonwealth. He shall furnish one (1) copy to the county clerk, one (1) copy to the secretary of the Transportation Cabinet, one (1) copy to the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet and one (1) copy to the secretary of the Natural Resources and Environmental Protection Cabinet. If the county clerk objects to any findings of indebtedness in the Auditor's report, he shall file a written response with the Auditor within ten (10) days of his receipt of the report. The Auditor shall consider the written response and within thirty (30) days of its receipt issue a final

report. If the county clerk wishes to object to any findings of indebtedness contained in the final report, he shall file a request within ten (10) days of his receipt of the final report for a hearing before a three (3) member panel composed of the secretary of transportation or his designee, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] or his designee, and the president of the Kentucky County Clerks Association or his designee. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. The majority decision of this panel shall be determinative of any indebtedness to the Commonwealth. If the county clerk wishes to appeal the decision of this panel, he shall file the appeal in the Circuit Court for the county where he serves in accordance with KRS Chapter 13B.

Section 59. KRS 44.030 is amended to read as follows:

(1) No money shall be paid to any person on a claim against the state in his own right, or as an assignee of another, when he or his assignor is indebted to the state. The claim, to the extent it is allowed, shall be credited to the account of the person so indebted, and if there is any balance due him after settling the whole demand of the state that balance shall be paid to him.

(2) The Finance and Administration Cabinet shall provide the Cabinet for Families and Children with a quarterly report of all tort claims made against the state by individuals that the Cabinet for Families and Children shall compare with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

(3) Each organizational unit and administrative body in the executive branch of state government, as defined in KRS 12.010, and the Court of Justice in the judicial branch of state government shall provide information to the State Treasurer concerning any debt it has referred to the ***Department of*** Revenue[~~ Cabinet~~] for collection under KRS 45.241.

(4) Each agency and the Court of Justice shall provide information to the State Treasurer concerning any debt referred to the ***Department of*** Revenue[~~ Cabinet~~] for collection under KRS 45.237.

Section 60. KRS 45.001 is amended to read as follows:

(1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.

(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following members or their designees:

(a) The mayor of the city of Frankfort;

(b) The county judge/executive of Franklin County;

(c) The secretary of the Finance and Administration Cabinet;

(d) The secretary of the Tourism Cabinet;

(e) The secretary of the Education, Arts, and Humanities Cabinet;

(f) The commissioner of the Department of Travel Development;

(g) The executive director of the Office of Capital Plaza Operations;

(h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;

(i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and

(j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

(4) The Governor shall appoint the chairperson of the committee.

(5) Members of the committee shall serve without compensation.

(6) The Office of Capital Plaza Operations[~~ in the Finance and Administration Cabinet~~] shall provide administrative support to the committee.

Section 61. KRS 45.237 is amended to read as follows:

(1) As used in KRS 45.237 to 45.239:

(a) "Agency" means an organizational unit or administrative body in the executive branch of state government as defined in KRS 12.010;

(b) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(c) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;

(d) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse; and

(e) "Debt" means:

1. A sum certain which has been certified by an agency as due and owing; and

2. For the Court of Justice, "debt" means a legal debt, including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or 24A.175(4) has expired.

(2) The Finance and Administration Cabinet shall develop for the executive branch of state government a system of internal controls and preaudit policies and procedures applicable to disbursement transactions for the purpose of prevention and detection of errors or fraud and abuse prior to the issuance of a check or warrant. The initial policies and procedures shall be established and implemented no later than October 1, 2004, and shall focus first on programs or activities that expend the most federal and general fund dollars. The Finance and Administration Cabinet shall develop preaudit procedures that meet the unique needs of each agency.

(3) In establishing these systems of internal control and preaudit policies and procedures, the Finance and Administration Cabinet shall:

(a) Consult with each agency within the executive branch to ascertain its unique fraud risks;

(b) Establish policies and procedures for agency-level oversight of fraud risks, including risk assessment, risk tolerance, and management policies, and fraud-prevention processing controls;

(c) Establish systems and procedures for detecting both unintentional errors and fraudulent misrepresentations that may have occurred in vendor invoices submitted for payment, applications submitted for benefits, claims for refunds of amounts previously paid or withheld, and other disbursements;

(d) Establish systems and procedures for preventing and detecting unintentional errors and the fraudulent disbursement of funds by state government employees in the processing, approving, and paying of invoices, refunds, vouchers, benefit payments, and other disbursements; and

(e) Consult with the state Auditor of Public Accounts, the ***Commonwealth Office of***[~~Governor's Office for~~] Technology, the American Institute of Certified Public Accountants, the Association of Certified Fraud Examiners, law enforcement agencies, or any other entity with knowledge and expertise in the detection and prevention of fraud.

(4) Each agency shall diligently attempt to collect amounts paid to a vendor, provider, or recipient due to error, fraud, or abuse for sixty (60) days after the improper payment is discovered. If the improper payment has not been recovered after sixty (60) days, the agency shall certify the improper payment as a debt of the agency and shall refer all certified debts to the ***department***[~~cabinet~~].

(5) Any funds recovered by an agency within the sixty (60) day collection period allowed under subsection (4) of this section and prior to referral to the ***department***[~~cabinet~~] shall be allocated to the fund from which the improper payment was expended.

(6) Each agency shall submit annual summaries of debts due to error, fraud, or abuse, improper payments discovered, and certified debts referred to the ***department***[~~cabinet~~] to the Legislative Research Commission. These summaries shall include but not be limited to:

(a) Debts owed the Commonwealth that have been identified by the agency, in accordance with the preaudit procedures established under this section, as those resulting from error, fraud, or abuse, of either the payee or the state agency;

(b) The aggregate amount of money collected by the agency on those debts during the sixty (60) day period allowed under subsection (4) of this section; and

(c) The aggregate amount of certified debts that the agency referred to the ***department***[~~cabinet~~].

(7) Each agency shall provide information about each debt due to error, fraud, or abuse that is certified under this section to the State Treasurer for the Treasurer's action under KRS 44.030(1).

Section 62. KRS 45.238 is amended to read as follows:

(1) Debts that are certified by an agency as provided in KRS 45.237 shall be referred to the ***department***[~~cabinet~~] for collection. The ***department***[~~cabinet~~] shall be vested with all the powers necessary to collect any referred debts.

(2) For those debts deemed unfeasible or cost ineffective to pursue, the ***department***[~~cabinet~~] shall maintain written records of the debt and the reason the debt was deemed unfeasible or cost ineffective to pursue. These debts shall be written off in accordance with administrative regulations promulgated under the authority of subsection (6) of this section.

(3) All certified debts received by the ***department***[~~cabinet~~] after the sixty (60) day collection period allowed in KRS 45.237(4) shall be subject to interest at the tax interest rate determined under KRS 131.183, on the amount of the debt from the date the debt is certified to the ***department***[~~cabinet~~] until it is satisfied, and a twenty-five percent (25%) collection fee. The ***department***[~~cabinet~~] may retain the collection fee and shall deposit the interest and recovered funds in the budget reserve trust fund established in KRS 48.705, except for Medicaid benefits and funds required by law to be remitted to a federal agency.

(4) The ***commissioner***[~~secretary~~] of the ***department***[~~cabinet~~] may refer to the Attorney General any unsatisfied claim, demand, account, or judgment in favor of the Commonwealth for further civil or criminal action under KRS 15.060.

(5) (a) The ***department***[~~cabinet~~] shall report annually by October 1 to the Legislative Research Commission on all referred certified debts, including at least a summary of the debts by agency, fund type, and age, the latter compiled in the following four (4) categories:

1. Debts from ninety (90) to one hundred seventy-nine (179) days old;
2. Debts from one hundred eighty (180) to three hundred sixty-four (364) days old;
3. Debts over one (1) year old but less than three (3) years old; and
4. Debts three (3) years old or older.

(b) The annual report shall also include the collection amount of the debts in paragraph (a) of this subsection and the accounts to which the amounts are credited.

(6) The ***department***[~~cabinet~~] shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish standards that agencies shall use in determining when to write debts off the books.

Section 63. KRS 45.239 is amended to read as follows:

(1) The Court of Justice shall initiate, by October 1, 2004, fully implement by October 1, 2005, and thereafter maintain a system for tracking and identifying debts.

(2) The Court of Justice shall establish and operate a system for collecting debt.

(3) In establishing the systems required by this section, the Court of Justice shall consider technology that could assist in the accurate, timely, and efficient delivery of payments of debts.

(4) The Court of Justice, Justice Cabinet, and ***the Department of*** Revenue[~~ Cabinet~~] shall collaborate to implement a system, if feasible, to identify and collect debts in existence prior to the implementation date of the system required by subsection (1) of this section. Confidential information shared among these entities to identify and collect debts shall not be divulged to any unauthorized person. Debts collected under this subsection shall be reported annually and designated separately as part of the report required pursuant to KRS 45.238 beginning on October 1, 2005, and ending with the report filed on or before October 1, 2009.

(5) The Court of Justice, Justice Cabinet, and ***Department of*** Revenue[~~ Cabinet~~] shall collaborate to implement a system, if feasible, to identify and collect liquidated debts in existence prior to the implementation date of the system required by subsection (1) of this section. Confidential information shared among these entities to identify and collect debts shall not be divulged to any unauthorized person. Debts collected under this subsection shall be reported annually to the Legislative Research Commission beginning on October 1, 2005, and ending with the report filed on or before October 1, 2009.

Section 64. KRS 45.241 is amended to read as follows:

(1) As used in this section:

(a) "Debt" means a sum certain which has been certified by an agency as due and owing;

(b) "Liquidated debt" means a legal debt for a sum certain which has been certified by an agency as final due and owing, all appeals and legal actions having been exhausted; and for the Court of Justice means a legal debt including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or KRS 24A.175(4) has expired;

(c) "Agency" means an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010;

(d) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(e) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;

(f) "Forgivable loan agreement" means a loan agreement entered into between an agency and a borrower that establishes specific conditions, which, if satisfied by the borrower, allows the agency to forgive a portion or all of the loan; and

(g) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse.

(2) Each agency and the Court of Justice shall develop, maintain, and update in a timely manner an ongoing inventory of each debt owed to it, including debts due to improper payments, and shall make every reasonable effort to collect each debt. Within sixty (60) days after the identification of a debt, each agency shall begin administrative action to collect the debt.

(3) The Auditor of Public Accounts shall review each agency's debt identification and collection procedures as part of the annual audit of state agencies.

(4) An agency shall not forgive any debt owed to it unless that agency has entered into a forgivable loan agreement with a borrower, or unless otherwise provided by statute.

(5) For those agencies without statutory procedures for collecting debts, the ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe standards and procedures with which those agencies shall comply regarding collection of debts, notices to persons owing debt, information to be monitored concerning the debts, and an appeals process.

(6) Each agency and the Court of Justice shall identify all liquidated debts, including debts due to improper payments, and shall submit a list of those liquidated debts in the form and manner prescribed by the ***department***[~~cabinet~~] to the ***department***[~~cabinet~~] for review. The ***department***[~~cabinet~~] shall review the information submitted by the agencies and the

Court of Justice and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the ***department***[~~cabinet~~] to further pursue collection of the liquidated debts.

(a) The ***department***[~~cabinet~~] may, after consultation with the agency or the Court of Justice, return the liquidated debt to the entity submitting the liquidated debt if:

1. The request for review contains insufficient information; or

2. The debt is not feasible to collect.

Any return of a liquidated debt shall be in writing, and shall state why the debt is being returned.

(b) The ***department***[~~cabinet~~] shall identify in writing, to the submitting agency or the Court of Justice, the liquidated debts it has determined that it can pursue in a cost-effective manner, and the agency or Court of Justice shall officially refer the identified liquidated debts to the cabinet for collection.

(c) The agency and the Court of Justice shall retain a complete record of all liquidated debts referred to the ***department***[~~cabinet~~] for collection until the debt is collected or forgiven.

(d) Each agency and the Court of Justice shall make appropriate accounting of any uncollected debt as prescribed by law.

(7) (a) If the agency recovers the debt funds prior to referral to the ***Department of*** Revenue[~~ Cabinet~~], the agency shall retain the collected funds in accordance with its statutory authority.

(b) Upon referral of a liquidated debt to the ***Department of*** Revenue[~~ Cabinet~~], the liquidated debt shall accrue interest from the time of referral until paid, and a twenty-five percent (25%) collection fee shall attach unless the interest and collection fee are waived by the ***Department of*** Revenue[~~ Cabinet~~]. The collection fee and interest shall be in addition to any other costs accrued prior to the time of referral. The ***department***[~~cabinet~~] may deduct and retain from the liquidated debt recovered an amount equal to the lesser of the collection fee or the actual expenses incurred in the collection of the debt. Any funds recovered by the ***Department of*** Revenue[~~ Cabinet~~] after the deduction of the ***department's***[~~cabinet's~~] cost of collection expenses shall be deposited in the general fund, except for Medicaid benefits funds and funds required by law to be remitted to a federal agency, which shall be remitted as required by law.

(c) Nothing in this section shall prohibit the ***Department of*** Revenue[~~ Cabinet~~] from entering into a memorandum of agreement with an agency pursuant to KRS 131.130(11), for collection of debts prior to liquidation. If an agency enters into an agreement with the ***department***[~~cabinet~~], the agency shall retain funds collected according to the provisions of the agreement.

(d) This section shall not affect any agreement between the ***department***[~~cabinet~~] and an agency entered into under KRS 131.130(11) that is in effect on July 13, 2004, that provides for the collection of liquidated debts by the ***department***[~~cabinet~~] on behalf of the agency.

(e) This section shall not affect the collection of delinquent taxes by county attorneys under KRS 134.500.

(f) This section shall not affect the collection of performance or reclamation bonds.

(8) Upon receipt of a referred liquidated debt and after its determination that the debt is feasible and cost-effective to collect, the ***Department of*** Revenue[~~ Cabinet~~] shall pursue collection of the referred debt in accordance with KRS 131.030.

(9) By administrative regulation promulgated under KRS Chapter 13A, the ***Department of*** Revenue[~~ Cabinet~~] shall prescribe the electronic format and form of, and the information required in, a referral.

(10) (a) The ***Department of*** Revenue[~~ Cabinet~~] shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the collection of debts, including debts due to improper payments. The report shall include the total amount by agency and fund type of liquidated debt that has been referred to the ***department***[~~cabinet~~]; the amount of each referring agency's liquidated debt, by fund type, that has been collected by the ***department***[~~cabinet~~]; and the total amount of each referring agency's liquidated debt, by fund type, that the ***department***[~~cabinet~~] determined to be cost-ineffective to collect, including the reasons for the determinations.

(b) Each cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on:

1. The amount of previous fiscal year unliquidated debt by agency, including debts due to improper payments, fund type, category, and age, the latter to be categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years; and

2. The amount, by agency, of liquidated debt, including debts due to improper payments, not referred to the ***Department of*** Revenue[~~ Cabinet~~]; a summary, by criteria listed in subsection (6)(a) of this section, of reasons the ***Department of*** Revenue[~~ Cabinet~~] provided for not requesting referral of those liquidated debts; and a summary of the actions each agency is taking to collect those liquidated debts.

(c) Beginning on October 1, 2005, the Court of Justice shall report annually by October 1 of each year to the Interim Joint Committee on Appropriations and Revenue the amount of previous fiscal year unliquidated debt by county and whether in the Circuit Court or District Court; and fund type and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years. The first year for which the Court of

Justice shall be required to report is the fiscal year beginning on July 1, 2004 and ending on June 30, 2005. The Court of Justice shall not be required to report unliquidated debts in existence prior to July 1, 2004.

(d) The Finance and Administration Cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the amount of the General Government Cabinet's unliquidated debt by agency, fund type, and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years.

(11) At the time of submission of a liquidated debt to the ***Department of*** Revenue[~~ Cabinet~~] for review, the referring agency or the Court of Justice shall provide information about the debt to the State Treasurer for the Treasurer's action under KRS 44.030(1).

Section 65. KRS 45.251 is amended to read as follows:

(1) Expenditures shall be limited to the amounts and purposes for which appropriations are made. All expenditures shall be reflected in the unified and integrated system of accounts as provided by KRS 45.305.

(2) The Finance and Administration Cabinet shall prescribe all information technology standards, system attributes, and components to be used in, or in conjunction with, the unified accounting system. The components must be consistent with Commonwealth standards contained within the information technology architecture, as provided by the ***Commonwealth Office of***[~~Governor's Office for~~] Technology.

(3) The Governor, the Chief Justice, and the Legislative Research Commission shall designate the officer or employee authorized to approve advices of employment, purchase orders and contracts, and requisitions for reservation of funds, and no advice, order, contract, or requisition shall be honored as a commitment statement unless the designation has been conveyed to the Finance and Administration Cabinet.

(4) The Finance and Administration Cabinet may approve for payment any expenditure presented by a budget unit, provided that the Finance and Administration Cabinet is able to determine that the expenditure is to satisfy a liability of the Commonwealth of Kentucky created on behalf of that budget unit in fulfilling the governmental function assigned to that budget unit and that the expenditure is being made from the unexpended balance of a proper allotment.

(5) Subsidiary records shall be maintained to report the financial operation and condition of each budget unit. These subsidiary records shall be compatible with the unified accounting system prescribed by subsection (1) of this section and by KRS 45.305, and may be on the accrual basis or cash basis. Expenditures may be by prior encumbrances or by straight disbursements. The subsidiary records may be maintained by the Finance and Administration Cabinet and by the budget unit involved. When a budget unit is authorized to maintain subsidiary records, the Finance and Administration Cabinet shall have authority to prescribe the accounting and preauditing procedures. The unified system of accounts shall conform to accepted management and accounting principles.

Section 66. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a branch budget bill to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a branch budget bill to receive and disburse contributions, gifts, donations, devises, and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions, and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust, or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust, or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

(5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from the approved charges shall be credited to the surplus account of the general fund. Payroll deductions for the Kentucky State Police legal fund shall be made

without any service fees or charges.

(6) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless the services or materials are required by law to be furnished gratuitously. The receipts from the authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, the ***Commonwealth Office of***[~~Governor's Office for~~] Technology's operating account.

(7) All receipts which accrue as the result of the ***Commonwealth Office of***[~~Governor's Office for~~] Technology's providing on-line computer access to public records by nongovernment entities shall be deposited in the State Treasury and credited to the trust and agency fund, the ***Commonwealth Office of***[~~Governor's Office for~~] Technology's operating account.

Section 67. KRS 45.818 is amended to read as follows:

The ***executive director of the Commonwealth Office of Technology***[~~Commonwealth's chief information officer~~] shall provide to the Capital Projects and Bond Oversight Committee at its January, April, July, and October regular meetings a status report on any information technology system not yet completed which received line item authorization by the Kentucky General Assembly or was authorized pursuant to KRS 45.760(14), excluding systems of an institution as defined under KRS 164.001. The committee shall prescribe data elements to be included in the quarterly status reports.

Section 68. KRS 45.990 is amended to read as follows:

(1) Any officer, agent, or employee of any budget unit who willfully fails or refuses to comply with any of the provisions of KRS 45.011 to 45.031, 45.121, 45.142, 45.151, 45.242, 45.244, 45.251, 45.253, 45.305, or 45.313, or who expends any money in violation of any of the provisions of those sections, shall be subject to prosecution in the Franklin Circuit Court, and upon conviction shall be guilty of a violation.

(2) If any person incurs, or orders or votes for the incurrence of, any obligations in violation of any of the provisions of KRS 45.244, he and his sureties shall be jointly and severally liable therefor.

(3) Any employee of the ***Office***[~~Division~~] of Material and Procurement Services ***established within the Office of the Controller***, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement in the procurement of business, or the giving of business, including, but not limited to, personal service contracts, for, or to, or from, any person, partnership, firm, or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a Class C felony.

(4) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money, or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, including, but not limited to, personal service contracts, to any employee of the ***Office***[~~Division~~] of Material and Procurement Services or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a Class C felony.

Section 69. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

   (a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

   (b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

   (c) The Finance and Administration Cabinet shall attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state,

including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet.

(5) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Surplus ***Properties***[~~Property~~], and approved by the secretary of the Finance and Administration Cabinet or his or her designee.

(6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(7) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(8) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.

(9) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(11) For capital construction projects, subject to the provisions of this code and KRS 45A.180, the procurement may be on whichever of the following alternative project delivery methods, in the judgment of the secretary of the Finance and Administration Cabinet after first considering the traditional design-bid-build project delivery method, offers the best value to the taxpayer:

(a) A design-build basis; or

(b) A construction management-at-risk basis.

Proposals shall be reviewed by the engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Nothing in this section shall prohibit the procurement of phased bidding or construction manager-agency services.

(12) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy-using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 70. KRS 45A.182 is amended to read as follows:

(1) When a capital project is to be constructed utilizing the design-build method in accordance with KRS 45A.180, a process parallel to the selection committee procedures established in KRS 45A.810 shall apply when procuring a design-build team and shall incorporate the following:

(a) The evaluation process may include a multiple phased proposal that is based on qualifications, experience, technical requirements, guaranteed maximum price, and other criteria as set forth in the request for proposal. The guaranteed maximum price component shall be submitted by the offeror independently of other documents and shall be held by the director of the Division of ***Engineering and Contract***[~~Contracting and~~] Administration.

(b) Each evaluator shall independently score each phase and indicate a total score for all evaluation factors as set forth in the request for proposal.

(c) Final phase proposals from the offerors on the short list shall be evaluated and scored by the evaluation committee members who shall not have knowledge of the guaranteed maximum price component. Each evaluator shall independently score the final phase proposals and indicate a total score. A total average score shall be calculated for each offeror. Then each offeror's respective score for the guaranteed maximum price shall be added. The offeror with the highest point total in the final phase shall receive the contract award unless the guaranteed maximum price proposal is in excess of the authorized budget. If two (2) or more of the offerors achieve the same highest point total at the end of the final phase scoring, the purchasing officer shall request best-and-final proposals from each offeror.

(d) If the guaranteed maximum price of the offeror with the highest point total in the final phase is greater than the amount of funds identified in the request for proposal, then competitive negotiations may be conducted with the offerors under the following restrictions:

1. If discussion pertaining to the revision of the specifications or quantities are held, the offerors shall be afforded an opportunity to take part in such discussions.

2. Written revisions of the specifications shall be made available to each of the offerors and shall provide for an expeditious response.

3. Information derived from revised maximum guaranteed price proposals shall not be disclosed to competing offerors.

(2) A request for proposal or other solicitation may be canceled, or all proposals may be rejected, if it is determined in writing that such action is taken in the best interest of the Commonwealth and approved by the purchasing officer.

Section 71. KRS 45A.715 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall not enter into any personal service contract for the collection of revenue for the state or for the prosecution of any action or proceeding for the collection of delinquent taxes owed by a resident and the assessment of omitted property owned by a resident.

Section 72. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Kentucky Asset/Liability Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State

University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University, Eastern Kentucky University, the Kentucky Community and Technical College System for the Technical Institutions' Branch, and the University of Kentucky for the University of Kentucky Community College System;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management;

(6) "Office" means the Office of Financial Management established by ***Section 11 of this Act***[~~KRS 42.400~~];

(7) "Underwriter" means:

(a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

(b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 73. KRS 47.012 is amended to read as follows:

All moneys paid to the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 138.510 to 138.550 shall be deposited with the State Treasurer and be credited to the general expenditure fund.

Section 74. KRS 48.115 is amended to read as follows:

(1) Except as provided for in subsection (4) of this section, the detailed revenue estimates for the general fund and the road fund required by KRS 48.120 shall be based on a consensus revenue forecast. The consensus revenue forecast shall be developed by the consensus forecasting group. The members of the consensus forecasting group shall be jointly selected by the state budget director and the Legislative Research Commission. The members shall be knowledgeable about the state and national economy and the revenue and financial conditions of the Commonwealth.

(2) If, after the revenue estimates made as required under KRS 48.120, the Legislative Research Commission or state budget director determines that a revision to the revenue estimates is needed, the Legislative Research Commission or state budget director shall request a revision from the consensus forecasting group. The revised revenue estimates shall become the official revenue estimates.

(3) The state budget director shall coordinate with the ***Department of*** Revenue[~~ Cabinet~~] and the Transportation Cabinet to ensure that the financial and revenue data required for the forecasting process is made available to the consensus forecasting group.

(4) Staff for the consensus forecasting group shall be provided by the Legislative Research Commission.

Section 75. KRS 48.810 is amended to read as follows:

Each program cabinet, the Department for Local Government, the Department of Military Affairs, and the ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall develop and submit a four (4) year strategic plan to meet the broad goals outlined by the Governor, and shall submit an electronic copy of the full plan and an electronic copy of a brief summary of that plan to the state budget director, the secretary of the Executive Cabinet, and the Legislative Research Commission with each biennial budget request.

(1) Each strategic plan shall include, but not be limited to:

(a) A statement of the cabinet or administrative entity's value, vision, and mission;

(b) A statement of how the cabinet or administrative entity's strategic plan is aligned with the Governor's goals and linked to the budget request and the six (6) year capital plan of the cabinet or administrative entity;

(c) A brief summary of a situation analysis conducted by the program cabinet or administrative entity;

(d) Identification of measurable goals for the next four (4) years;

(e) Specification of objectives to meet the stated goals;

(f) Identification of performance indicators to be used to measure progress toward meeting goals and objectives; and

(g) A progress report providing data and information on the performance indicators set forth in the program cabinet or administrative entity's most recent strategic plan.

(2) On or before September 1 of each even-numbered fiscal year, program cabinets and administrative entities which have submitted strategic plans in the previous fiscal year shall submit a progress report to the office of the state budget director, or its designee, which provides data and information regarding the progress the program cabinet or entity has made toward meeting its goals as measured by performance indicators set forth in the cabinet's or entity's most recent strategic plan.

(3) The state budget director shall designate an entity to develop and implement a methodology for strategic planning and progress reporting for use by program cabinets and administrative entities submitting strategic plans and progress reports pursuant to this section. The entity designated by the state budget director shall develop and make available a training course in strategic planning that is appropriate for and targeted to state government managers, and shall make that training

course available to state managers and their designees who have responsibility for the completion of a strategic plan as required by this section.

(4) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall maintain uniform electronic strategic plan and progress report submission forms and a procedure that allows all plans and progress reports to be entered into an electronic database that is searchable by interested parties. The database shall be developed and maintained in a form that complies with all provisions of KRS 48.950, 48.955, and 48.960. The ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall develop and maintain a program to provide public access to submitted plans and progress reports.

Section 76. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of the Treasury, Internal Revenue Service, a State Property and Buildings Commission composed of the Governor, who shall be chairman thereof, the Lieutenant Governor who shall be vice chairman of the commission, the Attorney General, the secretary of the Cabinet for Economic Development, ***and*** the secretary of the Finance and Administration Cabinet,[~~ and the secretary of the Revenue Cabinet,~~] or their alternates as authorized in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee, or other remuneration for his services as a member of the commission, but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission shall constitute a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271B, except as that chapter may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies, except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter. As an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name, in accordance with the terms and provisions of KRS Chapter 58, secured by and payable solely from all or any part of the revenues of the state agency as may be specified and provided in the approved application. Any covenants and undertakings of the state agency in the approved application with regard to the production of revenues and the use, application, or disposition thereof may be enforced by the holders of any of the revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by or on behalf of the Kentucky Economic Development Finance Authority and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, Ch. 109, shall require the prior approval of the State Property and Buildings Commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one (1) unit within the meaning of the regulations of the United States Department of the Treasury, Internal Revenue Service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission may designate, by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four (4) years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature, whether the same has been revoked, and when; and the joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any four (4) members of the commission, or their alternates authorized under paragraph (a) of this subsection, shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.

(c) The State Property and Buildings Commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 77. KRS 56.784 is amended to read as follows:

(1) The Finance and Administration Cabinet may implement the provisions of KRS 56.770 to 56.784 through the promulgation of administrative regulations pursuant to KRS Chapter 13A.

(2) By July 15, 2002, the secretary of the Finance and Administration Cabinet shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A establishing a process for procurement of energy savings performance contracts, including required contract language. The following entities shall adhere to these regulations when procuring services under a guaranteed energy savings performance contract:

(a) Any governing body of a postsecondary institution that manages its capital construction program under KRS 164A.580; or

(b) Any public corporation as defined by KRS 45.750(2)(c) or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth that manages its capital construction program.

(3) All state agencies, including those identified in subsection (2) of this section, shall submit proposed guaranteed energy savings performance contracts to the Office of Financial Management ***within the Office of the Controller*** for review and approval prior to contract execution.

(4) The secretary shall report all authorized guaranteed energy savings performance contracts to the Capital Projects and Bond Oversight Committee for its review.

Section 78. KRS 56.813 is amended to read as follows:

(1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) (a) When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.

1. If the improvements cost more than one thousand dollars ($1,000), the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full over the life of the lease. No other financing method shall be used.

2. If the improvements cost one thousand dollars ($1,000) or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full over a period of time which shall run no longer that the life of the lease. No other financing method shall be used. No improvement shall be artificially divided so as to qualify under the provisions of this subparagraph.

(b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.

(c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost.

(3) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.

(4) The Division of Real Properties, within the Department for Facilities ***and Support Services***~~[Management]~~, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Section 79. KRS 56.8177 is amended to read as follows:

All built-to-suit lease agreements shall be reviewed by the Office of Financial Management ***within the Office of the Controller*** prior to execution on behalf of the Commonwealth by the secretary of the Finance and Administration Cabinet or on behalf of an institution in accordance with KRS 164A.630, and approved for form and legality by the Attorney General or an assistant attorney general, before they shall be binding against the Commonwealth. All the leases shall be lodged for record and recorded in the office of the county clerk of the county in which the leased property is located.

Section 80. KRS 56.819 is amended to read as follows:

(1) When there is a change in ownership in leased premises, the new owner shall furnish the Division of Real Properties,

within the Department for Facilities ***and Support Services***~~[Management]~~, with a copy of the deed or other instrument of conveyance by which the new owner acquired title to the property or the right to payment under the lease and other evidence in support of his claim to the payment of rent under the lease the Division of Real Properties may request. The Commonwealth shall change its records and redirect its rent payments accordingly.

(2) When the agency occupying leased premises or the Finance and Administration Cabinet receives information that a change in ownership has occurred, payments of rent shall be suspended until the Division of Real Properties learns the ownership of the premises and determines who is entitled to the rent.

Section 81. KRS 56.861 is amended to read as follows:

(1) There is recognized as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of Treasury, Internal Revenue Service, a Kentucky Asset/Liability Commission composed of the secretary of the Finance and Administration Cabinet, who shall be chair; the Attorney General; the State Treasurer;~~[the secretary of the Revenue Cabinet;]~~ and the state budget director, or their alternates as authorized in KRS 56.865. The vice chair shall be elected from among the membership.

(2) Any three (3) members of the commission, or their alternates, shall constitute a quorum and shall by a majority vote be authorized to transact any and all business of the commission.

(3) No member shall receive any salary, fee, or other remuneration for services as a member of the commission, but each shall be entitled to reimbursement for ordinary traveling expenses, including meals and lodging, incurred in the performance of the member's duties.

(4) The commission shall constitute a public body corporate with perpetual succession and power in name to contract and be contracted with, sue and be sued, adopt bylaws not inconsistent with KRS 56.860 to 56.869, have and use a corporate seal, and exercise all of the powers granted private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with KRS 56.860 to 56.869.

(5) The selection of bond counsel, senior managing underwriter, or financial advisor to the commission shall be subject to the provisions of KRS 45A.840 to 45A.879.

(6) Notes issued pursuant to KRS 56.860 to 56.869 may be sold on a competitive or negotiated sale basis.

Section 82. KRS 56.862 is amended to read as follows:

The Office of Financial Management ***within the Office of the Controller*** shall serve as staff to the commission. The executive director of the Office of Financial Management shall serve as secretary to the commission. The commission shall coordinate with the Office of the Controller to ensure that the necessary financial data is made available.

Section 83. KRS 56.863 is amended to read as follows:

The commission shall have the power and duty to:

(1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of KRS 56.860 to 56.869;

(2) Promulgate administrative regulations relating to KRS 56.860 to 56.869;

(3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, and the resulting change in the net interest margin on the budget of the Commonwealth;

(4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;

(6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state agency to fund authorized projects or to satisfy judgments;

(7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under KRS 56.860 to 56.869 to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;

(8) Designate individual employees or officers of the Office of Financial Management ***within the Office of the Controller*** as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount, maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial agreements, for the commission;

(9) Enter into financial agreements for the purpose of hedging its current or projected interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;

(10) Deposit net interest payments and premiums received by the commission under financial agreements into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to interest-sensitive liabilities; and

(11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:

(a) A description of the Commonwealth's investment and debt structure;

(b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;

(c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year; and

(d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

Section 84. KRS 61.420 is amended to read as follows:

For the purpose of KRS 61.410 to 61.500:

(1) "Wages" means all remuneration for employment as defined in subsection (2) of this section, including the cash value of all remuneration paid in any medium other than cash, except that the term shall not include that part of the remuneration which, even if it were for "employment" within the meaning of Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act;

(2) "Employment" means any service performed by an employee in the employ of the Commonwealth, a political subdivision, or an interstate instrumentality, for those employers, except (a) service of an emergency nature, (b) service which in the absence of an agreement entered into under KRS 61.410 to 61.500 would constitute "employment" as defined in the Social Security Act, or (c) service which under the Social Security Act may not be included in any agreement between the Commonwealth and the commissioner entered into under KRS 61.410 to 61.500; except that service, the compensation for which is on a fee basis, may be excluded in any plan approved under KRS 61.410 to 61.500, and provided also, that service in any class or classes of positions, the exclusion of which is permitted under the Social Security Act, may be excluded in any plan approved under KRS 61.460;

(3) "Employee" means any person in the service of the Commonwealth, a political subdivision, or an interstate instrumentality of which the Commonwealth is a principal and shall include all persons designated officers including those which are elected and those which are appointed;

(4) "State agency" means the Division of ***Local Government Services***[~~Social Security~~], Office of the Controller, which agency shall be subject to the authority of the secretary of finance and administration;

(5) "Political subdivision," in addition to counties, municipal corporations, and school districts, includes instrumentalities of the Commonwealth, of one (1) or more of its political subdivisions, or of the Commonwealth and one (1) or more of its political subdivisions, and any other governmental unit thereof;

(6) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," including regulations and requirements issued pursuant thereto, as that act has been and may from time to time be amended;

(7) "Federal Insurance Contributions Act" means subchapters A, B, and C of Chapter 21 of the Federal Internal Revenue Code and all amendments thereto;

(8) "Commissioner" means the Commissioner of Social Security and includes any individual to whom the commissioner may delegate any of the commissioner's functions under the Social Security Act; and, with respect to any transactions regarding insurance coverage occurring prior to April 11, 1953, includes the federal security administrator and any individual to whom the administrator may have delegated any of the administrator's functions under the Social Security Act; and, with respect to any transactions regarding insurance coverage occurring from April 11, 1953, to March 30, 1995, includes the Secretary of Health and Human Services and any individual to whom the secretary may have delegated any of the secretary's functions under the Social Security Act;

(9) "Insurance coverage" means coverage by the old-age, survivors, disability, and hospital insurance provisions of the Social

Security Act.

Section 85. KRS 62.055 is amended to read as follows:

(1) Every county clerk, before entering on the duties of his office, shall execute bond to the Commonwealth, with corporate surety authorized and qualified to become surety on bonds in this state. Any county clerk holding office as of January 1, 1978, who has not executed bond as provided herein shall do so within thirty (30) days from February 9, 1978.

(2) In counties containing a consolidated local government or a city of the first class, the amount of the county clerk's bond shall be at least five hundred thousand dollars ($500,000). In counties containing a city of the second class but not containing consolidated local governments and in counties containing an urban-county form of government, the amount of county clerk's bond shall be at least four hundred thousand dollars ($400,000). In counties containing a city of the third class but not a city of the first or second class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least one hundred thousand dollars ($100,000). In counties containing a city of the fourth or fifth class, but not a city of the first, second, or third class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least seventy-five thousand dollars ($75,000). In counties containing a city of the sixth class, but not a city of the first, second, third, fourth, or fifth class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least fifty thousand dollars ($50,000).

(3) The bond of the county clerk shall be examined and approved by the fiscal court, which shall record the approval in its minutes. The fiscal court shall record the bond in the county clerk's records and a copy of the bond shall be transmitted within one (1) month to the ***Department of*** Revenue[~~ Cabinet~~], where it shall be recorded and preserved. Except in those counties where the fees of the county clerk are paid into the State Treasury, the premium on the county clerk's bond shall be paid by the county.

(4) Where circumstances in a particular county indicate that the amount of the bond may not be sufficient, the ***Department of*** Revenue[~~ Cabinet~~] may request the fiscal court to increase the bond as provided in KRS 62.060. The fiscal court shall then require a bond of sufficient amount to safeguard the Commonwealth.

Section 86. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

(1) "Activation date" means the date established in the grant contract at any time in a two (2) year period after the date of approval of the grant contract by the economic development authority or the tourism development authority, as appropriate. The economic development authority or tourism development authority, as appropriate, may extend this two (2) year period to no more than four (4) years upon written application of the agency requesting the extension. To implement the activation date, the agency who is a party to the grant contract shall notify the economic development authority or the tourism development authority, as appropriate, the ***Department of*** Revenue[~~ Cabinet~~], and other taxing districts that are parties to the grant contract when the implementation of the increment authorized in the grant contract shall occur;

(2) "Agency" means an urban renewal and community development agency established under KRS Chapter 99; a development authority established under KRS Chapter 99; a nonprofit corporation established under KRS Chapter 58; an air board established under KRS 183.132 to 183.160; a local industrial development authority established under KRS 154.50-301 to 154.50-346; a riverport authority established under KRS 65.510 to 65.650; or a designated department, division, or office of a city or county;

(3) "Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area;

(4) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;

(5) "City" means any city, consolidated local government, or urban-county;

(6) "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "County" means any county, consolidated local government, or charter county;

(9) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items (base year computed for 1982 to 1984 equals one hundred (100)), published by the United States Department of Labor, Bureau of Labor Statistics;

(10) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(11) "Development area" means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more projects are proposed to be located, except that for any development area for which increments are to include revenues from the Commonwealth, the contiguous geographic area shall satisfy the requirements of KRS 65.6971 or 65.6972;

(12) "Economic development authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(13) "Enterprise Zone" means an area designated by the Enterprise Zone Authority of Kentucky to be eligible for the benefits of KRS 154.45-010 to 154.45-110;

(14) "Governing body" means the body possessing legislative authority in a city or county;

(15) "Grant contract" means:

(a) That agreement with respect to a development area established under KRS 65.686, by and among an agency and one (1) or more taxing districts other than the Commonwealth, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments other than revenues from the Commonwealth received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area; or

(b) That agreement, including with respect to a development area satisfying the requirements of KRS 65.6971 or 65.6972, a master agreement and addenda to the master agreement, by and among an agency, one (1) or more taxing districts, and the economic development authority or the tourism development authority, as appropriate, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area;

(16) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(17) "Increments" means the amount of revenues received by any taxing district, determined by subtracting the amount of old revenues from the amount of new revenues in the calendar year with respect to a development area and for which the taxing district or districts and the agency have agreed upon under the terms of a grant contract;

(18) "Infrastructure development" means the acquisition of real estate within a development area meeting the requirements of KRS 65.6971 and the construction or improvement, within a development area meeting the requirements of KRS 65.6971, of roads and facilities necessary or desirable for improvements of the real estate, including surveys; site tests and inspections; environmental remediation; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other underground and surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, and electricity, communications, and similar facilities; and utility extensions to the boundaries of the development area meeting the requirements of KRS 65.6971;

(19) "Issuer" means a city, county, or an agency issuing increment bonds;

(20) "New revenues" means the amount of revenues received with respect to a development area in any calendar year after the activation date for a development area:

(a) Established under KRS 65.686, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area, and occupational license fees not otherwise used as a credit against an assessment, and all or a portion of assessments as determined by the governing body; or

(b) Satisfying the requirements of KRS 65.6971, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area; or

(c) Satisfying the requirements of KRS 65.6972, the ad valorem taxes, other than the school and fire district portions of the ad valorem taxes, received from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes as may be determined by the ***Department of*** Revenue[~~ Cabinet~~] to be applicable to the project and specified in the grant contract, generated from the primary project entity within the development area minus relocation revenue;

(21) "Old revenues" means the amount of revenues received with respect to a development area:

(a) Established under KRS 65.686, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area and occupational license fees generated from the development area; or

(b) Satisfying the requirements of KRS 65.6971, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area; or

(c) Satisfying the requirements of KRS 65.6972, in the period of no longer than three (3) calendar years prior to the commencement date, the average as determined by the ***Department of*** Revenue[~~ Cabinet~~] to be a fair representation of revenues derived from ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property in the development area, and Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the ***Department of*** Revenue[~~ Cabinet~~] as specified in the grant contract generated from the development area. With respect to this paragraph, if the development area was within an active enterprise zone for the period used by the ***Department of*** Revenue[~~ Cabinet~~] for measuring old revenues, then the calculation of old revenues shall include the amounts of ad valorem taxes, other than the school and fire district portions of ad valorem taxes, that would have been generated from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the ***Department of*** Revenue[~~ Cabinet~~] as specified in the grant contract, were the development area not within an active enterprise zone. With respect to this paragraph, if the primary project entity generated old revenue prior to the commencement date in the development area or revenues were derived from the development area prior to the commencement date of the development area, then revenues shall increase each calendar year by the percentage increase of the consumer price index, if any;

(22) "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or

(c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(23) "Primary project entity" means the entity responsible for control, ownership, and operation of the project within a development area satisfying the requirements of KRS 65.6972 which generates the greatest amount of new revenues or, in the case of a proposed development area satisfying the requirements of KRS 65.6972, is expected to generate the greatest amount of new revenues;

(24) "Project" means, for purposes of a development area:

(a) Established under KRS 65.686, any property, asset, or improvement certified by the governing body, which certification is conclusive as:

1. Being for a public purpose;

2. Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development areas as contributing to economic development;

3. Being in or related to a development area; and

4. Having an estimated life or period of usefulness of one (1) year or more, including but not limited to real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;

(b) Satisfying the requirements of KRS 65.6971; an economic development project defined under KRS 154.22-010, 154.24-010, or 154.28-010; or a tourism attraction project defined under KRS 148.851; or

(c) Satisfying the requirements of KRS 65.6972, the development of facilities for:

1. The transportation of goods or persons by air, ground, water, or rail;

2. The transmission or utilization of information through fiber-optic cable or other advanced means;

3. Commercial, industrial, recreational, tourism attraction, or educational uses; or

4. Any combination thereof;

(25) "Relocation revenue" means the ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as specified in the grant contract, received by a taxing district attributable to that portion of the existing operations of the primary project entity located in the Commonwealth and relocating to the development area satisfying the requirements of KRS 65.6972;

(26) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;

(27) "Taxing district" means a city, county, or other taxing district that encompasses all or part of a development area, or the Commonwealth, but does not mean a school district or fire district;

(28) "Termination date" means the date on which a development area shall cease to exist, which for purposes of a development area:

(a) Established under KRS 65.686, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this paragraph; or

(b) Satisfying the requirements of KRS 65.6971, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract constituting a master agreement, except that for an addendum added to the master agreement for each project in the development area, the termination date may be extended to no longer than twenty (20) years from the date of each addendum; or

(c) Satisfying the requirements of KRS 65.6972, shall be for a period of no longer than twenty (20) years from the activation date of the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this subsection;

(29) "Tourism development authority" means the Tourism Development Finance Authority as created in KRS 148.850; and

(30) "Project costs" mean the total private and public capital costs of a project.

Section 87. KRS 65.6971 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area for infrastructure development which includes revenues from the Commonwealth, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area described in the application constitutes a project of the type described in this section. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A development area for purposes of infrastructure development shall:

(a) 1. Consist of at least fifty (50) acres of undeveloped land, unless approved otherwise by the economic development authority or the tourism development authority in consideration of the geography of the area; or

2. Consist of at least one (1) acre constituting a brownfield site; and

(b) 1. In the case of an economic development project, be under the control of, owned by, and operated by an agency at the commencement date; or

2. In the case of a tourism attraction project, be under the control of, leased by, owned by, or operated by an agency at the commencement date.

(3) With respect to each city, county, or agency that applies to the economic development authority or the tourism development authority for approval of a development area for infrastructure development, the economic development authority or the tourism development authority shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority may grant approval for:

(a) The development area for infrastructure development;

(b) Each project for which an application has been submitted to be located in the development area for infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under subchapters 22, 24, or 28 of KRS Chapter 154, or satisfies the requirements of a tourism development attraction defined under KRS 148.851;

(c) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to distribute to the agency each year during the term of the grant contract;

(d) The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and

(e) The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.

(4) Prior to any approval by the economic development authority or the tourism development authority, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the development area for which economic development authority or the tourism development authority approval is sought. The economic development authority or the tourism development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

(5) The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).

(6) The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority or the tourism development authority and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority or the tourism development authority as to the use of the increment for payment of infrastructure development costs.

(7) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the ***Department of*** Revenue[~~ Cabinet~~] for certification.

1. Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the ***Department of*** Revenue[~~ Cabinet~~] on a calendar year basis the amount of the increment collected.

2. Upon certification of the total increment due from the Commonwealth by the ***Department of*** Revenue[~~ Cabinet~~], the ***department***[~~Cabinet~~] is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The ***Department of*** Revenue[~~ Cabinet~~] shall report to the economic development authority or the tourism development authority on a calendar year basis the amount of the total increment released to an agency.

(8) The ***Department of*** Revenue[~~ Cabinet~~] shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(9) The ***Department of*** Revenue[~~ Cabinet~~] or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.

Section 88. KRS 65.6972 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area, which includes revenues from the Commonwealth, and the related project, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area and related project described in the application constitutes a project of the type described in KRS Chapter 154 for which the economic development authority shall have the right to approve the development area and related project or KRS Chapter 148 for which the tourism development authority shall have the right to approve the development area and related project. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A project otherwise satisfying the requirements of the project as defined in KRS 65.680, in order to qualify the project and related development area, in addition shall satisfy all of the following requirements for a project:

(a) Represent new economic activity in the Commonwealth;

(b) Result in a minimum capital investment of ten million dollars ($10,000,000);

(c) Result in the creation of a minimum of twenty-five (25) new full-time jobs for Kentucky residents to be held by persons subject to the personal income tax of the Commonwealth within two (2) years of the date of the final resolution authorizing the development area and the project;

(d) Result in a net positive economic impact to the economy of the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses;

(e) Generate a minimum of twenty-five percent (25%) of the total revenues derived from the project attributable to sources outside of the Commonwealth during each year a grant contract is in effect;

(f) Result in a unique contribution to or preservation of the economic vitality and quality of life of a region of the Commonwealth; and

(g) Not be primarily devoted to the retail sale of goods.

(3) After assignment of the application for the project and related development area by the Cabinet for Economic Development:

(a) The economic development authority or the tourism development authority, as appropriate, shall engage the services of a qualified independent consultant to analyze data related to the project and the development area, who shall prepare a report for the economic development authority or the tourism development authority, as appropriate, with the following findings:

1. The percentage of revenues derived from the development area which are generated from business not located in the Commonwealth;

2. The estimated amount of increment the development area is expected to generate over a twenty (20) year period from the projected activation date;

3. The estimated amount of ad valorem taxes, other than the school or fire district portion of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes which would be displaced within the Commonwealth, to reflect economic activity which is being shifted over the twenty (20) year period;

4. The estimated increment the development area is expected to generate over the twenty (20) year period, equal to the estimated amount set forth in paragraph (a)2. of this subsection minus the estimated amount set forth in paragraph (a)3. of this subsection; and

5. The project or development area will not occur if not for the designation of the development area and granting of increments by the Commonwealth to the development area.

(b) The independent consultant shall consult with the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] in the development of the report. The Office of State Budget Director ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] shall agree as to methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] shall certify whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project to the economic development authority or tourism development authority, as appropriate. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(c) The primary project entity shall pay all costs associated with the independent consultant's report.

(4) With respect to each city, county, or agency that applies for approval of a project and development area, the economic development authority or the tourism development authority, as appropriate, shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority, as appropriate, deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority, as appropriate, may by resolution grant approval for:

(a) The development area and project for which an application has been submitted;

(b) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have distributed to the agency each year during the term of the grant contract;

(c) The maximum amount of costs for the project for which the increment may be distributed to the agency; and

(d) The grant contract.

(5) Prior to any approval by the economic development authority or the tourism development authority, as appropriate, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and approving the project and establishing the percentage of increment that the city and county are distributing each year to the agency to pay for the development area for which economic development authority or tourism development authority approval is sought. The economic development authority or the tourism development authority, as appropriate, shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each year with respect to a development area and project greater than the percentage approved by the city or county creating the development area.

(6) The amount of increment available for a development area shall be no more than eighty percent (80%) per year, but shall in no case exceed twenty-five percent (25%) of the project costs during the term of the grant agreement.

(7) The terms and conditions of each grant contract are subject to negotiations between the economic development authority or the tourism development authority, as appropriate, and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the agreed taxes to be included in the calculation of the increment, the percentage increment to be contributed by the Commonwealth and other taxing districts, the maximum amount of project costs, a description of the development area and the project, the termination date, and the

requirement that the agency annually certify to the economic development authority or tourism development authority, as appropriate, as to the use of the increment for payment of project costs in the development area.

(8) The agency responsible for the development area that enters into the grant contract shall, after each year the grant contract is in effect, certify to the economic development authority or the tourism development authority, as appropriate:

(a) The amount of the increment used during the previous calendar year for the project costs; and

(b) That more than twenty-five percent (25%) of the total revenues derived from the project during the previous calendar year were attributable to sources outside the Commonwealth.

(9) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due. In consultation with each taxing district, the agency shall determine the respective portion of the total increment due from each taxing district, and the determination of the agency shall be reviewed by an independent certified public accountant. The agency shall submit to the ***Department of*** Revenue[~~ Cabinet~~] for certification its determination with respect to the total increment due together with the review of the certified public accountant and detailed information concerning ad valorem taxes, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the ***Department of*** Revenue[~~ Cabinet~~], including withholding taxes of employees of each taxpayer located in the development area.

1. Upon notification to the agency of the total increment by the ***Department of*** Revenue[~~ Cabinet~~] and notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the ***Department of*** Revenue[~~ Cabinet~~] on a calendar year basis the amount of the increments collected.

2. Upon certification of the total increment due from the Commonwealth by the ***Department of*** Revenue[~~ Cabinet~~], the ***department***[~~Cabinet~~] is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority, as appropriate, shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The ***Department of*** Revenue[~~ Cabinet~~] shall report to the economic development authority or the tourism development authority, as appropriate, on a calendar year basis the amount of the total increment released to an agency.

(10) The ***Department of*** Revenue[~~ Cabinet~~] shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(11) The ***Department of*** Revenue[~~ Cabinet~~] or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the trust account established under subsection (9)(a)2. of this section and administered by the Finance and Administration Cabinet after the initial release to the agency of the Commonwealth's increment for that period.

Section 89. KRS 65.7621 is amended to read as follows:

As used in KRS 65.7621 to 65.7643, unless the context requires otherwise:

(1) "Administrator" means the ***executive director of the Office of the 911 Coordinator within the Commonwealth Office of Technology functioning as the*** state administrator of CMRS emergency telecommunications ***under Section 22 of this Act***;

(2) "Automatic location identification", or "ALI" means an enhanced 911 service capability that enables the automatic display of information defining the approximate geographic location of the wireless telephone used to place a 911 call and includes the term "pseudo-automatic number identification;"

(3) "Automatic number identification", or "ANI" means an enhanced 911 service capability that enables the automatic display on an ALI screen of the ten-digit, or equivalent, wireless telephone number used to place a 911 call;

(4) "CMRS" means commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. secs. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, as it existed on August 10, 1993. The term includes the term "wireless" and service provided by any wireless real time two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communications service, and the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line;

(5) "CMRS Board" or "board" means the Commercial Mobile Radio Service Emergency Telecommunications Board of

Kentucky;

(6) "CMRS connection" means a mobile handset telephone number assigned to a CMRS customer;

(7) "CMRS customer" means a person to whom a mobile handset telephone number is assigned and to whom CMRS is provided in return for compensation;

(8) "CMRS Fund" means the commercial mobile radio service emergency telecommunications fund;

(9) "CMRS provider" means a person or entity who provides CMRS to an end user, including resellers;

(10) "CMRS service charge" means the CMRS emergency telephone service charge levied under KRS 65.7629(3) and collected under KRS 65.7635;

(11) "FCC order" means the Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted effective October 1, 1996, including any subsequent amendments or modifications thereof;

(12) "Local exchange carrier" or "LEC" means any person or entity who is authorized to provide telephone exchange service or exchange access in the Commonwealth;

(13) "Local government" means any city, county, charter county, or urban-county government of the Commonwealth, or any other governmental entity maintaining a PSAP;

(14) "Mobile telephone handset telephone number" means the ten (10) digit number assigned to a CMRS connection;

(15) "Proprietary information" means information held as private property, including customer lists and other related information, technology descriptions, technical information, or trade secrets;

(16) "Pseudo-automatic number identification" means a wireless enhanced 911 service capability that enables the automatic display of the number of the cell site or cell face;

(17) "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies;

(18) "Service supplier" means a person or entity who provides local exchange telephone service to a telephone subscriber; and

(19) "Wireless enhanced 911 system," "wireless E911 system," "wireless enhanced 911 service," or "wireless E911 service" means an emergency telephone system that provides the user of the CMRS connection with wireless 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features in accordance with the requirements of the FCC order.

Section 90. KRS 65.7623 is amended to read as follows:

(1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of eight (8) members, appointed by the Governor as follows: three (3) members shall be employed by or representative of the interest of CMRS providers; one (1) member shall be a mayor of a city of the first or second class or urban-county government or his or her designee containing a public safety answering point; one (1) nonvoting member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; and one (1) member shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials. The commissioner of the State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.

(2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years.

(3) In addition to the administrator,~~[appointed by the Governor under KRS 65.7625, and other staff authorized under KRS 65.7629,]~~ the Finance and Administration Cabinet shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the ***Commonwealth Office of***~~[Governor's Office for]~~ Technology for administrative purposes only and shall operate as an independent entity within state government.

(4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.

(5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of this section, shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631 to be used by the board for administrative purposes.

Section 91. KRS 65.7625 is amended to read as follows:

(1) The ***executive director of the Office of the 911 Coordinator shall be the***~~[Governor shall appoint a]~~ state administrator of commercial mobile radio service emergency telecommunications~~[, subject to confirmation by the Senate, from a list of no more than three (3) candidates recommended by the CMRS Board. The administrator shall serve at the pleasure of the~~

~~Governor. Vacancies shall be filled in the same manner as the original appointment~~]. The CMRS Board shall set the administrator's compensation, which shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631(1) to be used by the board for administrative purposes.

(2) The administrator of CMRS emergency telecommunications shall serve as a member of the CMRS Board and, as the coordinator and administrative head of the board, shall conduct the day-to-day operations of the board.

(3) The administrator shall, with the advice of the board, coordinate and direct a statewide effort to expand and improve wireless enhanced emergency telecommunications capabilities and responses throughout the state, including but not limited to the implementation of wireless E911 service requirements of the FCC order and rules and regulations adopted in carrying out that order. In this regard, the administrator shall:

(a) Obtain, maintain, and disseminate information relating to emergency telecommunications technology, advances, capabilities, and techniques;

(b) Coordinate and assist in the implementation of advancements and new technology in the operation of emergency telecommunications in the state; and

(c) Implement compliance throughout the state with the wireless E911 service requirements established by the FCC order and any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order.

Section 92. KRS 67A.882 is amended to read as follows:

(1) Proposals for the construction of the project shall be solicited upon the basis of submission of sealed, competitive bids after advertisement by publication pursuant to KRS Chapter 424, following adoption of the ordinance of determination and expiration of the permissive litigation period, or alternatively, the conclusion of litigation in a manner favorable to the project.

(2) After all costs of the project have been determined upon the basis of the construction bidding, the costs shall be apportioned among the owners of benefited property pursuant to the method of assessment previously determined in the ordinance of initiation and the ordinance of determination. However, in determining the apportionment of individual costs for purposes of affording to the owners of benefited property the privilege of paying the assessment levies in full on a lump-sum basis, the urban-county government shall exclude amounts required for the creation of the debt service reserve fund, capitalized interest costs, and any bond discount which the government may allow in connection with the sale of bonds to provide funds for the costs of construction not paid initially by the owners of benefited properties on a lump-sum basis.

(3) The owners of benefited property shall be notified in writing of the exact amount levied against their individual properties, which amount may, at the option of each owner, be paid in full on a lump-sum basis within thirty (30) days. Such owners shall be notified that in the event they exercise the option to pay in full on a lump-sum basis and in the event any refund of lump-sum payments or of interest earned on lump-sum payments is subsequently made, it shall be paid to the owners of the benefited properties for which lump-sum payments have been made as determined at the date the appropriate ordinance under either KRS 67A.894 or subsection (5) of this section is adopted. The statement submitted to such owners of benefited property shall additionally advise such owners that in the event such owners do not elect to pay the special improvement benefit assessment in full within the period of thirty (30) days from receipt, the urban-county government shall issue bonds pursuant to KRS 67A.871 to 67A.894 for the purpose of providing the cost of construction of the project, including the debt service reserve fund, if paid from bond proceeds, capitalized interest costs, any bond discount, together with all other costs, as the term is defined in KRS 67A.871(5). The owners of the benefited property shall further be advised that bonds and the interest thereon shall be amortized by annual improvement benefit assessment levies against all benefited properties which have not made lump-sum payments in accordance with the method of apportionment provided by the ordinance of initiation and the ordinance of determination.

(4) At the conclusion of the thirty (30) day permissive lump-sum payment period, the urban-county council shall determine the aggregate principal amount of improvement benefit assessments paid in full by owners of benefited property; shall order the deposit of the moneys in a trust account the principal of which shall be used solely to pay the costs of construction of the project; shall aggregate all unpaid improvement benefit assessments for purposes of determining the principal amount of bonds to be issued by the government to provide the costs of the project; shall compute the debt service reserve fund in respect to the bonds, if the fund is to be capitalized from bond proceeds; shall determine the bond discount and capitalized interest which shall be applicable to the issue of bonds; and shall proceed to complete the financing of the costs of construction of the project through the adoption of the ordinance of bond authorization as provided in KRS 67A.883 and the sale of bonds authorized pursuant thereto.[~~ Provided, however, that the ordinance of bond authorization may, as provided in KRS 67A.884, provide that, in lieu of issuing bonds, the government may contract with the Kentucky Pollution Abatement Authority for the financing of the project, in which latter event all procedures with respect to the annual assessment of benefited properties shall continue in full force and effect, but the urban-county government shall secure funding for the project through the Kentucky Pollution Abatement Authority in lieu of issuing bonds and shall pledge to and pay to the authority the annual improvement benefit assessment levies and enforce them for the security of the financing.~~]

(5) If an urban-county government has taken steps under KRS 67A.871 to 67A.893 to provide for, construct and finance any

project, and finally determines, by appropriate ordinance, that the project is essentially completed, the legislative body of the urban-county government may, in its discretion, refund any part, or all, of the interest earned on lump-sum payments, pro rata, to the current owners of the benefited properties which paid on a lump-sum basis, as determined at the date the ordinance determining the project is essentially completed is adopted.

Section 93. KRS 68.245 is amended to read as follows:

(1) The property valuation administrator shall submit an official estimate of real and personal property and new property assessment as defined in KRS 132.010, to the county judge/executive by April 1 of each year.

(2) No county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (5) of this section.

(3) The state local finance officer shall certify to each county judge/executive, by June 30 of each year, the following:

(a) The compensating tax rate, as defined in KRS 132.010, and the amount of revenue expected to be produced by it;

(b) The tax rate which will produce no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 and the amount of revenue expected to be produced by it.

(4) Real and personal property assessment and new property determined in accordance with KRS 132.010 shall be certified to the state local finance officer by the ***Department of*** Revenue[~~ Cabinet~~] upon completion of action on property assessment data.

(5) (a) A county fiscal court, proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) County fiscal courts of counties containing a city of the first class proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold three (3) public hearings to hear comments from the public regarding the proposed tax rate. The hearings shall be held in three (3) separate locations; each location shall be determined by dividing the county into three (3) approximately equal geographic areas, and identifying a suitable facility as near as possible to the geographic center of each area.

(c) The county fiscal court shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearings which shall be held not less than seven (7) days nor more than ten (10) days, after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(d) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(e) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The county fiscal court may set reasonable time limits for testimony.

(6) (a) That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the

compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The county fiscal court shall, within seven (7) days following adoption of an ordinance to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the county fiscal court has adopted a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
3. The name, address, and telephone number of the county clerk, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 94. KRS 68.260 is amended to read as follows:

(1) The proposed county budget, tentatively approved by the fiscal court and approved by the state local finance officer as to form and classification, shall be submitted to the fiscal court for adoption not later than July 1 of each year. The budget as presented and amended shall be adopted as of July 1. The county judge/executive shall cause a copy of the proposed budget to be posted in a conspicuous place in the courthouse near the front door, and be published pursuant to KRS Chapter 424, at least seven (7) days before final adoption by the fiscal court.

(2) Any taxpayer or group of taxpayers may petition the fiscal court in respect to the budget or any part thereof before final adoption.

(3) If the fiscal court rejects any part of the proposed budget, it shall make the changes in the nature and amount of funds a majority of the court considers desirable, but it has no power to make any change in the form or classification of the budget units or subdivisions of units.

(4) The fiscal court may amend the budget on the basis of the assessment from the ***Department of*** Revenue[~~ Cabinet~~]. The fiscal court shall finalize the budget within thirty (30) days of the receipt of the certified assessment.

Section 95. KRS 75.040 is amended to read as follows:

(1) (a) Upon the creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010 to 75.031, the trustees of a district are authorized to establish and operate a fire department and emergency ambulance service as provided in subsection (6) of this section and to levy a tax upon the property in the district, including that property within cities in a fire protection district or a volunteer fire department district, as provided by KRS 75.010(2) provided that the property is subject to county tax, and not exceeding ten cents ($0.10) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(b) A fire protection district or a volunteer fire department district that establishes and operates an emergency ambulance service and is the primary service provider in the district may levy a tax upon the property in the district not to exceed twenty cents ($0.20) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department and emergency ambulance service or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The establishment, maintenance, and operation of a fire protection district or volunteer fire department district shall include, but not be limited to, the following activities:

(a) Acquisition and maintenance of adequate fire protection facilities;
(b) Acquisition and maintenance of adequate firefighting equipment;
(c) Recruitment, training, and supervision of firefighters;
(d) Control and extinguishment of fires;
(e) Prevention of fires;
(f) Conducting fire safety activities;
(g) Payment of compensation to firefighters and providing the necessary support and supervisory personnel;
(h) Payment for reasonable benefits or a nominal fee to volunteer firefighters when benefits and fees do not constitute wages or salaries under KRS Chapter 337 and are not taxable as income to the volunteer firefighters under Kentucky or federal income tax laws; and

(i) The use of fire protection district equipment for activities which are for a public purpose and which do not materially diminish the value of the equipment.

(3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the ***Department of Revenue***[~~revenue cabinet~~].

(4) Such taxes shall be subject to the same delinquency date, discounts, penalties, and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected by him.

(5) Nothing contained in this subsection shall be construed to prevent the trustees of a fire protection district located in a city or county which provides emergency ambulance service from using funds derived from taxes for the purpose of providing supplemental emergency medical services so long as the mayor of the city or the county judge/executive of the county, as appropriate, certifies to the trustees in writing that supplemental emergency medical services are reasonably required in the public interest. For the purposes of this subsection, "supplemental emergency medical services" may include EMT, EMT-D, and paramedic services rendered at the scene of an emergent accident or illness until an emergency ambulance can arrive at the scene.

(6) The trustees of those fire protection districts or volunteer fire department districts whose districts or portions thereof do not receive emergency ambulance services from an emergency ambulance service district or, whose districts are not being served by an emergency ambulance service operated or contracted by a city or county government, may develop, maintain, and operate or contract for an emergency ambulance service as part of any fire department created pursuant to this chapter. No taxes levied pursuant to subsection (1) of this section shall be used to develop, maintain, operate, or contract for an emergency ambulance service until the tax year following the year the trustees of the district authorize the establishment of the emergency ambulance service.

Section 96. KRS 76.278 is amended to read as follows:

(1) In order to establish a comprehensive sewage and sewage treatment system, or storm water and surface drainage system, or both, within the sanitation tax district, the sanitation tax district through its board may levy an ad valorem tax upon the real property in the district, not exceeding limits designated by the Constitution of the Commonwealth. Provided, however, that notice stating the amount of the proposed tax and the area to be affected be published in a newspaper of bona fide circulation as provided in KRS 424.130. Provided, further, that no resolution of the board imposing an ad valorem tax shall go into effect until the expiration of thirty (30) days after the first publication of the notice. If during the thirty (30) days next following the first notice of said resolution, a petition signed by a number of constitutionally qualified voters equal to fifteen percent (15%) of the votes cast within the area affected at the last preceding general election, stating the residence of each signer, and verified as to signatures and residence by the affidavits of one (1) or more persons is presented to the county judge/executive protesting against passage of such resolution or if the fiscal court passes a resolution suspending the tax, the resolution shall be suspended from going into effect. The county judge/executive shall notify the board of the sanitation tax district of the receipt of the petition or of the suspension of the resolution or both. If the resolution is not repealed by the board, the board shall submit to the voters of the area to be taxed, at the next regularly-scheduled November election, the question as to whether the tax shall be levied. The question as it will appear on the ballot shall be filed with the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the resolution shall not go into effect. If a majority of the votes cast upon the question favor its passage, the resolution shall go into effect as of January 1 of the year succeeding the year in which the election is held.

(2) When such tax levy has been fully approved, the property valuation administrator, with the cooperation of the board shall note on the tax rolls the taxpayers and valuation of the property subject to such tax. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue[~~Cabinet~~].

(3) Such ad valorem taxes shall be collected by the sheriff in accordance with the general law and accounted for to the board. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected.

Section 97. KRS 91.4883 is amended to read as follows:

(1) Within thirty (30) days after the filing with the Circuit Court clerk of an enforcement suit for the collection of unpaid taxes under the provisions of KRS 91.484 to 91.527, the collector shall cause a notice of enforcement to be published two (2) times, once each week, during successive weeks, and on the same day of each week, otherwise in accordance with the provisions of KRS Chapter 424.

(2) Such notice shall be in substantially the following form:

NOTICE OF ENFORCEMENT OF LIEN FOR DELINQUENT LAND TAXES BY ACTION IN REM

Public Notice is hereby given that on the .... day of ...., 19......, the City of .... of .... County, Kentucky, filed a petition, being Action Number ...., in the Circuit Court of .... County, Kentucky, at .... (stating the city), for the enforcement of liens for delinquent land taxes against the real estate situated in such city, all as described in said petition.

The object of said suit is to obtain from the court a judgment enforcing the city's tax and other liens against such real estate and ordering the sale of such real estate for the satisfaction of said liens thereon (except right of redemption in favor of the United States of America if any), including principal, interest, penalties, and costs. Such action is brought against the real estate only and no personal judgment shall be entered therein.

The count number assigned by the city to each parcel of real estate, a description of each such parcel by street address and the property valuation administrator's tax parcel number (district, block, lot and sub-lot), a statement of the total principal amount of all delinquent city tax bills against each such parcel of real estate, all of which, as to each parcel, is more fully set out and mentioned by count in the aforesaid petition, and the name of any taxing authority or person of record owning or holding any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate as set out in the petition, are respectively as follows:

(Here set out the respective count numbers, property descriptions, names of taxpayers of record and statements of total principal amounts of tax bills, and names of those other interested persons of record next above referred to.)

The total principal amounts of delinquent taxes set out in this notice do not include the lawful interest, penalties, and costs which have accrued against the respective parcels of real estate.

Any person or taxing authority owning or holding any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate must file an answer to such suit in the office of the Circuit Court clerk of .... county in ...., and a copy of such answer with the city of .... in accordance with the Kentucky Rules of Civil Procedure, on or before the .... day of ...., 19 ....., and in such answer shall set forth in detail the nature and the amount of such interest and any defense or objection to the enforcement of the tax liens, or any affirmative relief he or it may be entitled to assert with respect thereto.

Any person having any right, title, or interest in or to, or lien upon, any parcel of such real estate may have the city's claims against such parcel dismissed from the action by paying all of the sums mentioned therein to the city of .... including principal, interest, penalties, and costs then due, at any time prior to the enforcement sale of such real estate by the master commissioner.

In the event of failure to answer on or before the date herein fixed as the last day for filing answer in the suit, by any person having the right to answer, such person shall be forever barred and foreclosed as to any defense or objection he might have to the enforcement of such liens for delinquent taxes and the judgment of enforcement may be taken by default. Redemption may be made for a period of sixty (60) days after the master commissioner's enforcement sale, if the sale price is less than the parcel's current assessed value as certified by the ***Department of*** Revenue[~~ Cabinet~~]. Each such person having any right, title, or interest in or to, or any lien upon, any such parcel of real estate described in the petition so failing to answer or redeem, as aforesaid, shall be forever barred and foreclosed of any right, title, or interest in or to, or lien upon, or any equity of redemption in said real estate.

.............................., Kentucky
(name of city)

....
Attorney
....
....
....
Address
....
Phone
....
Date of first publication

Section 98. KRS 91.4885 is amended to read as follows:

(1) The court shall order the master commissioner to sell, pursuant to the provisions of KRS 426.560 to 426.715, except as otherwise provided in this section, each parcel separately by individual count number. The court shall further order that a report of the sale be made by the master commissioner to the court for further proceedings under the provisions of KRS 91.484 to 91.527.

(2) Prior to the master commissioner's setting each parcel for sale pursuant to court order, the collector shall file with the Circuit Court clerk an affidavit as to the most recent certified tax assessment of each parcel to be sold. The most recent certified assessment of a property shall be the property valuation administrator's last assessment which shall have been certified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~] to the county clerk, as required by KRS 133.180.

(3) The most recent certified assessment as sworn to in the affidavit furnished by the collector shall be used in all actions brought under KRS 91.484 to 91.527 to determine the owner's equity of redemption as provided by KRS 91.511(2).

Section 99. KRS 91.511 is amended to read as follows:

(1) At any time prior to the sale of the property any person having any right, title or interest in, or lien upon, any parcel of real estate described in the petition may discharge any city lien or satisfy a judgment in favor of the city as to said parcel of real estate by paying to the collector all of the sums mentioned therein, including the principal, interest, penalties, and costs then due.

(2) If the property is sold pursuant to the judgment or order of the court and does not bring its most recent assessed value certified by the ***Department of*** Revenue[~~ Cabinet~~] to the county clerk as required by KRS 133.180, the owner may redeem it within sixty (60) days from the day of the sale, by paying the purchaser the original purchase money and interest at eighteen percent (18%) per annum. Any owner who redeems his land shall take a receipt from the purchaser and lodge it with the clerk of the court. The receipt shall be entered upon the records of the court.

(3) The owner may tender the redemption money to the purchaser, his agent or attorney, if found in the county where the land lies or in the county in which the judgment was obtained or order of sale made. If the money is refused, or if the purchaser does not reside in either of the counties, the owner may, before the expiration of the right of redemption, go to the clerk of the court in which the judgment was rendered or the order made, and make affidavit of the tender and refusal, or that the purchaser or his agent or attorney do not reside in either of the counties. He may then pay to the clerk the redemption money, and the clerk shall give receipt therefor and file the affidavit among the papers of the action.

(4) When the right of redemption exists, the owner may remain in possession of the property until it expires. Real property so sold shall not be conveyed to the purchaser until the right of redemption has expired. If it is redeemed, the sale shall, from and after the redemption or from and after the deposit of the redemption money with the clerk, be null and void.

(5) In the event of failure to redeem within the period provided for redemption, the owner or any other party in interest shall be barred forever of all his right, title and interest in and to the parcel of real estate described in the petition.

(6) Upon redemption, as permitted by this section, the person redeeming shall be entitled to a certificate of redemption from the collector describing the property in the same manner as it is described in the petition and the collector shall thereupon note on his records the word "redeemed" and the date of the payment opposite the description of the parcel of real estate.

Section 100. KRS 96.820 is amended to read as follows:

(1) For the purposes of this section, unless the context requires otherwise:

  (a) "Taxing jurisdiction" shall mean each county, each school district, each municipality, and each other special taxing district located within the state.

  (b) "State" shall mean the Commonwealth of Kentucky.

  (c) "Tax equivalent" shall mean the amount in lieu of taxes computed according to this section which is required to be paid by each board to the state and to each taxing jurisdiction in which the board operates and required by subsection (11) of KRS 96.570 to be included in resale rates.

  (d) "Tax year" shall mean the twelve (12) calendar-month period ending with December 31.

  (e) "Current tax rate" shall mean the actual levied ad valorem property tax rate of the state and of each taxing jurisdiction which is applicable to all property of the same class as a board's property subject to taxation for the tax year involved.

  (f) "Book value of property" or "book value of property owned by the board" shall mean the sum of:

    1. The original cost (less reasonable depreciation or retirement reserve) of a board's electric plant in service on December 31 of the immediately preceding calendar year located within the state, used and held for use in the transmission, distribution, and generation of electric energy, and

    2. The cost of the material and supplies owned by a board on December 31 of the immediately preceding calendar year. For the purpose of this definition, "electric plant in service" shall mean those items included in the "electric plant in service" account prescribed by the Federal Energy Regulatory Commission uniform system of accounts for electric utilities, and "material and supplies" shall mean those items included in the accounts grouped under the heading "material and supplies" in the said system of accounts.

  (g) "Adjusted book value of property" or "adjusted book value of property owned by the board" shall mean the book value of property owned by the board excluding manufacturing machinery as interpreted by the ***Department of*** Revenue[~~ Cabinet~~] for franchise tax determination purposes.

  (h) The "adjustment factor" shall be one hundred twenty-five percent (125%) for the tax year 1970. For each tax year thereafter, it shall be the duty of the ***Department of*** Revenue[~~ Cabinet~~] to compute the adjustment factor for that tax year as follows: For each five (5) percentage points or major fraction thereof by which the adjustment ratio for electric utility property for the immediately preceding tax year exceeded or was less than one hundred sixteen percent (116%), five (5) percentage points shall be added to or subtracted from one hundred twenty-five percent (125%). For the purposes of this computation, "adjustment ratio for electric utility property" shall mean the ratio of total assessed value to total property value for all public service corporations distributing electric energy to more than fifty thousand (50,000) retail electric customers within the state. "Total assessed value" shall mean the total actual cash value assigned by the ***Department of*** Revenue[~~ Cabinet~~] for ad valorem property tax purposes to the property of such corporations located within the state (properly adjusted for property under construction). "Total property value" shall mean the sum of:

1. The depreciated original cost of the total utility plant in service of such corporations within the state, and
2. The book value of material and supplies of such corporations located within the state, both as derived from published reports of the Federal Energy Regulatory Commission, or in the absence thereof, from information provided to the ***Department of*** Revenue[~~ Cabinet~~] by such corporations.

(i) "Electric operations" shall mean all activities associated with the establishment, development, administration, and operation of any electric system and the supplying of electric energy and associated services to the public, including without limitation the generation, purchase, sale, and resale of electric energy and the purchase, use, and consumption thereof by ultimate consumers.

(2) It shall be the duty of each board, on or before April 30, to certify to the ***Department of*** Revenue[~~ Cabinet~~] the book value of property owned by the board and the adjusted book value of property owned by the board and located within the state and within each taxing jurisdiction in which the board operates. A copy of the certification shall also be sent by the board to each such taxing jurisdiction. The book value of property and adjusted book value of property shall be determined, and the books and records of the board shall be kept in accordance with standard accounting practices, and the books and records of each board shall be subject to inspection by the ***Department of*** Revenue[~~ Cabinet~~] and by representatives of the affected taxing jurisdictions and to adjustment by the ***Department of*** Revenue[~~ Cabinet~~] if found not to comply with the provisions of this section. Upon the receipt of the required certification from a board, the ***Department of*** Revenue[~~ Cabinet~~] shall make any inspection and adjustment, hereinabove authorized, as it deems necessary, and no earlier than September 1 of each year the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the board and to the county clerk of each county in which the board operates the book value of property owned by the board and the adjusted book value of property owned by the board, located within each taxing jurisdiction in which the board operates and within the state. At the same time, the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the board and to the county clerk the adjustment factor for the tax year. The county clerk shall promptly certify the book value of property, the adjusted book value of property, and the adjustment factor certified by the ***Department of*** Revenue[~~ Cabinet~~], to the respective taxing jurisdiction in which the board operates.

(3) (a) Each board shall pay for each tax year, beginning with the tax year 1970, to the state and to each taxing jurisdiction in which the board operates, a tax equivalent from the revenues derived from the board's electric operations for that tax year, computed according to this subsection.

(b) The tax equivalent for each tax year payable to the state shall be the total of:

1. The book value of the property owned by the board within the state, multiplied by the adjustment factor, multiplied by the current tax rate of the state, less thirty cents ($0.30), plus
2. The state's portion of the amount payable under paragraph (d) of this subsection.

(c) The tax equivalent for each tax year payable to each taxing jurisdiction in which the board operates shall be the total of:

1. The adjusted book value of property owned by the board within the taxing jurisdiction, multiplied by the adjustment factor, multiplied by the current tax rate of the taxing jurisdiction; provided, however, for the purpose of this calculation the tax rate for school districts shall be increased by thirty cents ($0.30), plus
2. The taxing jurisdiction's portion of the amount payable under paragraph (d) of this subsection.

(d) For purposes of this subsection, "amount payable" shall mean four-tenths of one percent (0.4%) of the book value of property owned by the board located within the state. The state shall be paid the same proportion of the amount payable as the payment to the state under subparagraph 1. of paragraph (b) of this subsection represents of the total payments to the state and all taxing jurisdictions in which the board operates required by subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection. Each taxing jurisdiction in which the board operates shall be paid the same proportion of the amount payable as the payment to the taxing jurisdiction under subparagraph 1. of paragraph (c) of this subsection represents of the total payments to the state and all taxing jurisdictions in which the board operates required by subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection. Under the regulations the ***Department of*** Revenue[~~ Cabinet~~] may prescribe, upon the board's receipt from the state and taxing jurisdictions of notice of the amount due under subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection, the board shall compute the portion of the amount payable which is due the state and each taxing jurisdiction in which the board operates.

(e) Payment of the tax equivalent under this section for each tax year shall be made by each board to the state within thirty (30) days after receipt by the board of the certification from the ***Department of*** Revenue[~~ Cabinet~~] required by subsection (2) of this section and shall be made directly to each taxing jurisdiction in which the board operates within thirty (30) days from the date of the certifications by the county clerk required by subsection (2) of this section. The state and each taxing jurisdiction in which a board operates shall have a superior lien upon the proceeds of the sale of electric energy by that board for the amounts required by this section to be paid to it.

(4) Except as hereinafter provided, the tax equivalents computed under this section shall be in lieu of all state, municipal, county, school district, special taxing district, other taxing district, and other state and local taxes or charges on the

tangible and intangible property, the income, franchises, rights, and resources of every kind and description of any municipal electric system operating under KRS 96.550 to 96.900 and on the electric operations of any board established pursuant thereto, and the tax equivalent for any tax year computed and payable under this section to the state or to any taxing jurisdiction in which any board operates shall be reduced by the aggregate amount of any tax or charge within the meaning of this sentence which is imposed by the state, or by any taxing jurisdiction in which a board operates, on the board, the electric system, or the board's electric operations. Provided, however, that if any school district in which property of a board is located has elected, or does hereafter elect, to apply the utility gross receipts license tax for schools to all utility services as provided by KRS 160.613 through KRS 160.617, or as may hereafter be provided by other statutes, the amount of such utility gross receipts license tax shall not reduce, or in any manner affect, the amount payable to any such board or boards under the provisions of this section. It is the intent and purpose of this provision to eliminate all sums received by any such board or boards by reason of the utility gross receipts license tax from any computation of the amount payable under this section to any such board or boards, irrespective of the manner in which that payment is computed, so that, in no event, shall any sum received by any school district by reason of the utility gross receipts license tax reduce, directly or indirectly, the amount payable to such district under this chapter. Provided, further, that if the state shall levy a statewide retail sales or use tax on electric power or energy, collected by retailers of the energy from the vendees or users thereof, and imposed at the same rate or rates as are generally applicable to the sale or use of personal property or services, including natural or artificial gas, fuel oil, and coal as well as electric power or energy, the retail sales or use tax shall not be deemed to be a tax or charge within the meaning of the first sentence of this subsection, and the tax equivalent payable for the tax year to the state under this section shall not be reduced on account of such retail sales or use tax.

(5) (a) Notwithstanding subsection (3) of this section, until the first tax year in which the total of:

1. The tax equivalent payable to the state, or to any taxing jurisdiction in which the board operates, computed under subsection (3) of this section, plus

2. The additional amounts permitted to be paid to the state or taxing jurisdiction without deduction under the second and third sentences of subsection (4) of this section, exceeds the minimum payment to the state or taxing jurisdiction specified in paragraph (b) of this subsection, the tax equivalent for each tax year payable to the state or taxing jurisdiction shall be an amount equal to the minimum payment computed under paragraph (b) of this subsection.

(b) For purposes of this subsection, the minimum payment to the state or to any taxing jurisdiction in which the board operates shall mean an amount equal to the total of:

1. The largest actual payment made by the board pursuant to this section to the state or to the taxing jurisdiction for any of the tax years 1964, 1965, or 1966, plus

2. The state's or taxing jurisdiction's pro rata share of an amount equal to four-tenths of one percent (0.4%) of the increase since July 1, 1964, in the book value of property owned by the board within the state. For the purposes of this paragraph "pro rata share" shall mean the same proportion of the amount computed under this subparagraph as the largest actual payment in lieu of taxes made by the board to the state or taxing jurisdiction for the applicable tax year under subparagraph 1. of this paragraph represents of the total amount of the largest actual payments in lieu of taxes made by the board to the state and to all taxing jurisdictions in which it operated for any of the applicable tax years.

(c) The provisions of paragraph (e) of subsection (3) of this section shall apply to all payments required under this subsection.

(d) This subsection shall not be applicable for the first tax year specified in paragraph (a) of this subsection or for any tax year thereafter, except however, that tax year 1977 shall not be deemed as the "first tax year" as specified in paragraph (a) and this subsection shall continue to apply in such cases.

Section 101. KRS 96.895 is amended to read as follows:

(1) Except for payments made directly by the Tennessee Valley Authority to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the Tennessee Valley Authority, as authorized by section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts, as provided in subsection (2) of this section.

(2) The payment to each county, city, and school district shall be determined by the proportion that the book value of Tennessee Valley Authority property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of Tennessee Valley Authority property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates, provided, however, each public school district for the purposes of this calculation shall have their tax rate increased by thirty cents ($0.30).

(3) As soon as practicable after the amount of payment to be made to the Commonwealth of Kentucky is finally determined by the Tennessee Valley Authority, the Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall determine the book value of Tennessee Valley Authority property in each county, city, and school district and shall prorate the total payments received from the Tennessee Valley Authority, except payments received directly from the Tennessee Valley Authority, among the distributees as provided in subsection (2) of this section. The ***Department of*** Revenue[~~ Cabinet~~] shall certify the payment

due each taxing district to the Finance and Administration Cabinet which shall make the payment to such district.

(4) As used in subsections (2) and (3) of this section, "Tennessee Valley Authority Property" means land owned by the United States and in the custody of the Tennessee Valley Authority, together with such improvements (including work in progress but excluding temporary construction facilities) as have a fixed situs thereon if and to the extent that such improvements either:

(a) Were in existence when title to the land on which they are situated was acquired by the United States; or

(b) Are allocated by the Tennessee Valley Authority or determined by it to be allocable to power; provided, however, that manufacturing machinery as interpreted by the ***Department of*** Revenue[~~ Cabinet~~] for franchise tax determination shall be excluded along with ash disposal systems and, coal handling facilities, including railroads, cranes and hoists, crushing and conveying equipment. As used in said subsections "book value" means original cost unadjusted for depreciation as reflected in Tennessee Valley Authority's books of account. "Book value" shall be determined, for purposes of applying said subsections, as of the June 30 used by the Tennessee Valley Authority in computing the annual payment to the Commonwealth which is subject to redistribution by the Commonwealth.

(5) This section shall be applicable to all payments received after September 30, 1985, from the Tennessee Valley Authority under Section 13 of the Tennessee Valley Authority Act as amended.

Section 102. KRS 96A.320 is amended to read as follows:

(1) As used in KRS 96A.310 to 96A.370, the term "mass transportation program" shall mean the provision of necessary funds by public bodies to transit authorities created pursuant to KRS Chapter 96A with which to acquire, operate, and preserve mass transportation facilities. A "mass transportation program" may also include a method for the public body or public bodies to finance principal and interest payments on any general obligation bonds issued pursuant to KRS 96A.120, or to finance transportation-related facilities to promote the movement of vehicles and people. Urban-county governments which initiate a "mass transportation program" may include in this program the improvement of existing roads and the construction of new roads.

(2) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by additional voted levies of ad valorem taxes upon all taxable property in such public body or public bodies. Such additional voted levies of ad valorem taxes upon all taxable property in any such public body shall never exceed in the aggregate the limits prescribed by the Constitution of Kentucky for any such public body.

(3) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by voted levies of occupational license fees. Such voted levies of occupational license fees shall not exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons for work done and services performed or rendered; and

(b) The net profits of businesses, trades, professions, or occupations from activities conducted in the public body, or the transit area, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, any savings and loan association whether state or federally chartered, and in all other cases where a public body is prohibited by law from imposing a license fee.

(4) (a) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by the voted levy of a sales tax upon all retailers at a rate not to exceed one-half of one percent (0.5%) of the gross receipts of any retailer derived from "retail sales" or "sales at retail" made within the public body or public bodies, provided, however, that public transit sales tax shall not be levied on those retail sales which are exempted from the state sales tax by KRS Chapter 139 on June 19, 1976, or hereafter exempted.

(b) Any sales tax levied for said purpose shall be in addition to the sales tax authorized by Chapter 139 of the Kentucky Revised Statutes. Said public transportation sales tax shall be collected and administered under the provisions of Chapter 139 of the Kentucky Revised Statutes and the rules and regulations of the Kentucky ***Department of*** Revenue[~~ Cabinet~~].

(5) The Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall refund that portion of the sales tax collected as a public transportation tax to the public body or bodies imposing said tax.

(6) Notwithstanding any other provision contrary hereto, a mass transportation program financed by a public body or public bodies from said sales tax shall be restricted by the following order of priorities, to wit:

(a) First, the annual payment of principal, interest, and sinking fund requirements on any general obligation bonds issued pursuant to KRS 96A.120;

(b) Second, appropriations to the transit authority to provide local matching funds for any available federal or state capital, operating, or planning and demonstration grant projects in accordance with the annual approved budget; and

(c) Third, any excess funds in the control of each public body receiving said tax shall be transferred to the general fund of each such public body for public transportation and traffic improvement projects at any location within a city or county, in any manner which said public body or public bodies determine will improve transportation, road or traffic conditions, or in general will promote the movement of people and vehicles.

Section 103. KRS 99.605 is amended to read as follows:

(1) Any owner of an existing residential building, or any owner or lessee of a commercial facility, may make application to the administering agency for a property assessment or reassessment moratorium certificate. The application shall be filed within thirty (30) days before commencing restoration, repair, rehabilitation, or stabilization and shall be filed in a manner prescribed by the administering agency and on a form prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The application shall contain or be accompanied by a general description of the property and a general description of the proposed use of the property, the general nature and extent of the restoration, repair, rehabilitation, or stabilization to be undertaken and a time schedule for undertaking and completing the project. If the property is a commercial facility, the application shall in addition, be accompanied by a descriptive list of the fixed building equipment which will be a part of the facility and a statement of the economic advantages expected from the moratorium, including expected construction employment.

(2) Except as otherwise provided herein, the property valuation administrator, or other assessing official, and the administering agency shall maintain a record of all applications for a property assessment or reassessment moratorium and shall assess or reassess the property within thirty (30) days of receipt of the application. The administering agency shall issue a moratorium certificate only after completion of the project. The applicant shall notify the administering agency when the project is complete and the administering agency shall then conduct an on-site inspection of the property for purposes of verifying improvements.

(3) The applicant shall have two (2) years in which to complete the improvement unless granted an extension by the administering agency. In no case shall the application be extended beyond two (2) additional years. This provision shall not preclude normal reassessment of the subject property.

(4) Any application for an assessment or reassessment moratorium not acted upon by the applicant shall become void two (2) years from the date of application and shall be purged from the files of the administering agency.

(5) An assessment or reassessment moratorium certificate may be transferred or assigned by the holder of the certificate to a new owner or lessee of the property.

Section 104. KRS 131.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Commissioner***[~~Secretary~~]" means the ***commissioner***[~~secretary~~] of revenue.

(2) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(3) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any individual or corporation acting in a fiduciary capacity for any other person.

(4) "Taxpayer" means any person required or permitted by law or administrative regulation to perform any act subject to the administrative jurisdiction of the ***department***[~~cabinet~~] including, but not limited to, the following:

   (a) File a report, return, statement, certification, claim, estimate, declaration, form, or other document;

   (b) Furnish any information;

   (c) Withhold, collect, or pay any tax, installment, estimate, or other funds;

   (d) Secure any license, permit, or other authorization to conduct a business or exercise any privilege, right, or responsibility.

(5) "Adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the board of governors of the Federal Reserve System.

(6) "Tax interest rate" means the interest rate determined under KRS 131.183.

(7) "Tax" includes any assessment or license fee administered by the ***department***[~~cabinet~~]; however, it shall not include moneys withheld or collected by the ***department***[~~cabinet~~] pursuant to KRS 131.560 or 160.627.

(8) "Return" or "report" means any properly completed and, if required, signed form, statement, certification, claim estimate, declaration, or other document permitted or required to be submitted or filed with the ***department***[~~cabinet~~], including returns and reports or composites thereof which are permitted or required to be electronically transmitted.

(9) "Reasonable cause" means an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of monies due the

department[~~cabinet~~] pursuant to law or administrative regulation.

(10) "Fraud" means intentional or reckless disregard for the law, administrative regulations, or established policies of the ***department***[~~cabinet~~] to evade the filing of any return, report, or the payment of any monies due to the ***department***[~~cabinet~~] pursuant to law or administrative regulation.

Section 105. KRS 131.030 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall exercise all administrative functions of the state in relation to the state revenue and tax laws, the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the ***Department of*** Revenue[~~ Cabinet~~] may commit administration of certain taxes.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall have all the powers and duties with reference to assessment or equalization of the assessment of property heretofore exercised or performed by any state board or commission.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall have all the powers and duties necessary to consider and settle tax cases under KRS 131.110 and refund claims made under KRS 134.580. The ***Department of*** Revenue[~~ Cabinet~~] is encouraged to settle controversies on a fair and equitable basis and shall be authorized to settle tax controversies based on the hazards of litigation applicable to them.

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall have all the powers and duties necessary to collect any debts owed to the Commonwealth that are referred to the ***department***[~~cabinet~~] by an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010, and by the Court of Justice in the judicial branch of state government under KRS 45.241.

Section 106. KRS 131.051 is amended to read as follows:

As used in KRS 131.041 to 131.081, unless the context requires otherwise:

(1) "Taxpayer ombudsman" means the person appointed by the ***commissioner***[~~secretary~~] of revenue to carry out the administrative functions and responsibilities relating to the Office of Taxpayer Ombudsman created pursuant to KRS 131.071.

(2) "Taxpayer representative" means any attorney, tax practitioner, or other person designated by a taxpayer to represent him before the ***department***[~~cabinet~~] in any matter relating to taxes administered by the ***department***[~~cabinet~~].

Section 107. KRS 131.061 is amended to read as follows:

In addition to all other rights or privileges afforded Kentucky taxpayers, and notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the provisions of KRS 131.041 to 131.081 shall apply with regard to all taxes administered by the ***Department of*** Revenue[~~ Cabinet~~].

Section 108. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the ***Department of*** Revenue[~~ Cabinet~~].

(1) The ***department***[~~cabinet~~] shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and ***department***[~~cabinet~~] employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(2) The ***department***[~~cabinet~~] shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the ***department***[~~cabinet~~]. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the ***department***[~~cabinet~~] distributed to the public.

(3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the ***department***[~~cabinet~~]. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.

(4) The ***department***[~~cabinet~~] shall perform audits and conduct conferences and hearings only at reasonable times and places.

(5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of this ***department***[~~cabinet~~] recording or a transcript as provided in KRS 61.874.

(6) If any taxpayer's failure to submit a timely return or payment to the ***department***[~~cabinet~~] is due to the taxpayer's reasonable reliance on written advice from the ***department***[~~cabinet~~], the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the ***department***[~~cabinet~~] and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the ***department***[~~cabinet~~] did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or

regulations or a final decision of a court which rendered the ***department's***[~~cabinet's~~] earlier written advice no longer valid.

(7) Taxpayers shall have the right to receive a copy of any audit of the ***department***[~~cabinet~~] by the Auditor of Public Accounts relating to the ***department's***[~~cabinet's~~] compliance with the provisions of KRS 131.041 to 131.081.

(8) The ***department***[~~cabinet~~] shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.

(9) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the ***department***[~~cabinet~~] of the amounts owed. The ***department***[~~cabinet~~] may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; the taxpayers' financial condition has sufficiently changed; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The ***department***[~~cabinet~~] shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the ***department***[~~cabinet~~] has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.

(10) The ***department***[~~cabinet~~] shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving ***Department of*** Revenue[~~ Cabinet~~] personnel.

(11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the ***department***[~~cabinet~~] in writing and provides a copy of the extension at the time and in the manner which the ***department***[~~cabinet~~] may require.

(12) The ***department***[~~cabinet~~] shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the ***department***[~~cabinet~~], provided the erroneous lien or levy was caused by ***department***[~~cabinet~~] error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the ***department***[~~cabinet~~] and provided information or documentation sufficient to establish his or her position. When the ***department***[~~cabinet~~] releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.

(13) The ***department***[~~cabinet~~] shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.

(14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by ***department***[~~cabinet~~] employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the ***department***[~~cabinet~~]. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the board, the ***department***[~~cabinet~~] shall be reimbursed by the taxpayer for its costs in defending the action.

(15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the ***department***[~~cabinet~~] to any person or be intentionally and without authorization inspected by any present or former ***commissioner***[~~secretary~~] or employee of the ***Department of*** Revenue[~~ Cabinet~~], member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

Section 109. KRS 131.110 is amended to read as follows:

(1) The ***Department of*** Revenue [~~Cabinet~~] shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the ***department***[~~cabinet~~] within forty-five (45) days from the date of notice. Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 131.340. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the ***department***[~~cabinet~~] may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of the extension may be reviewed in the same manner as a protested assessment.

(2) After a timely protest has been filed, the taxpayer may request a conference with the ***department***[~~cabinet~~]. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.

(3) After considering the taxpayer's protest, including any matters presented at the final conference, the ***department***[~~cabinet~~]

shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the ***department***[~~cabinet~~], generally state the issues in controversy, the ***department's***[~~cabinet's~~] position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Board of Tax Appeals.

(4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the ***department***[~~cabinet~~] shall issue such ruling within thirty (30) days from the date the request is received by the ***department***[~~cabinet~~].

(5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.340.

Section 110. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the ***Department of*** Revenue[~~Cabinet~~]:

(1) The ***department***[~~cabinet~~] may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The ***department***[~~cabinet~~], by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files, and equipment of any taxpayer or of any person whose records, documents, or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably necessary for purposes incident to the performance of its functions. The ***department***[~~cabinet~~] may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the ***department***[~~cabinet~~].

(3) The ***department***[~~cabinet~~] shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(4) The ***department***[~~cabinet~~] shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) Attorneys employed by the ***Finance and Administration*** Cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a ***Finance and Administration***[~~Revenue~~] Cabinet attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the ***Finance and Administration*** Cabinet or at the request of the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet, the Attorney General or his designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The ***department***[~~cabinet~~] may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the ***department***[~~cabinet~~] for administration.

(8) The ***department***[~~cabinet~~] may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the ***commissioner***[~~secretary~~] may deem wise.

(9) The ***department***[~~cabinet~~] may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.

(10) The ***department***[~~cabinet~~] may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.

(11) The ***department***[~~cabinet~~] may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the ***department***[~~cabinet~~] shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:

(a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

(b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.

Section 111. KRS 131.135 is amended to read as follows:

(1) Each employer subject to KRS Chapter 342 shall file annually with the ***Department of*** Revenue[~~ Cabinet~~], in accordance with administrative regulations, a report providing the policy number and the name and address of the employer's workers' compensation insurance carrier.

(2) The report may be made available to other state agencies notwithstanding the confidentiality provisions of KRS 131.190.

Section 112. KRS 131.140 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall requisition the Finance and Administration Cabinet to furnish to local officials an adequate supply of forms for listing property for taxation and other forms and blanks the state is required by law to provide. The books and records prescribed for use by property valuation administrators, county clerks, sheriffs and other county tax collectors shall be designed to promote economical operation, adequate control, availability of useful information, and safekeeping. The forms prescribed for listing intangible property shall be designed to secure a detailed list to provide convenient checking of valuations with available sources of information, and to safeguard the confidential character of the intangible property assessment.

(2) The ***department***[~~cabinet~~] may confer with, advise and direct local officials respecting their duties relating to taxation, and shall supervise the officials in the performance of those duties. The ***department***[~~cabinet~~] shall provide to the property valuation administrators up-to-date appraisal manuals outlining uniform procedures for appraising all types of real and personal property assessed by them. The property valuation administrators shall follow the uniform procedures for appraising property outlined in these manuals. The ***department***[~~cabinet~~] shall maintain and make accessible to all property valuation administrators a statewide commercial real property comparative sales file. The ***department***[~~cabinet~~], by authorized agents, may visit local governmental units and officers for investigational purposes, when necessary.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall conduct a biennial performance audit of each property valuation administrator's office. This audit shall include, but shall not be limited to, an inspection of maps and records, an appraisal study of real property, and an evaluation of the overall effectiveness of the office. Each property valuation administrator's office shall provide the ***department***[~~cabinet~~] with access to its files, maps and records during the audit. The ***department***[~~cabinet~~] shall prepare a report on assessment equity and quality for each county based on the performance audit, and shall provide a copy to the Legislative Research Commission.

(4) The ***department***[~~cabinet~~] shall arrange for an annual conference of the property valuation administrators, or the county officers whose duty it is to assess property for taxation, to give them systematic instruction in the fair and just valuation and assessment of property, and their duty in connection therewith. The conference shall continue not more than five (5) days. The officers shall attend and take part in the conference, unless prevented by illness or other reason satisfactory to the ***commissioner***[~~secretary~~]. Any officer willfully failing to attend the conference may be removed from office by the Circuit Court of the county where he was elected. If the officer participates in all sessions of the conference, one-half (1/2) of his actual and necessary expenses in attending the conference shall be paid by the state, and the other half shall be paid by the county from which he attends. Each officer shall prepare an itemized statement showing his actual and necessary expenses, and if it is found regular and supported by proper receipts it shall be approved by the ***department***[~~cabinet~~] before payment.

Section 113. KRS 131.150 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] reasonably believes that any taxpayer has withdrawn from the state or concealed his assets or a material part thereof so as to hinder or evade the assessment or collection of taxes, or has desisted from any taxable activity in the state, or has become domiciled elsewhere, or has departed from this state with fraudulent intent to hinder or evade the assessment or collection of taxes, or has done any other act tending to render partly or wholly ineffective proceedings to assess or collect any such taxes, or contemplates doing any of these acts in the immediate future, or that any tax claim for any other reason is being endangered, such tax liability shall become due and payable immediately upon assessment or determination of the amount of taxes due, as authorized in this section.

(2) Under any of the circumstances set out in subsection (1) of this section, the ***department***[~~cabinet~~] may make a tentative assessment or determination of the taxes due, and may proceed immediately to bring garnishment, attachment or any other legal proceedings to collect the taxes so assessed or determined to be due. Notwithstanding the provisions of KRS 131.180(1), if the tax so assessed is due to the failure of the taxpayer to file a required tax return a minimum penalty of one hundred dollars ($100) shall be assessed unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund. No bond shall be required of the ***department***[~~cabinet~~] in such proceedings. The taxpayer may stay legal proceedings by filing a bond in an amount sufficient in the opinion of the ***department***[~~cabinet~~] to cover the taxes, penalties, interest, and costs. If no legal proceedings have been instituted, the ***department***[~~cabinet~~] may require a bond adequate to cover all taxes, penalties, and interest. On making bond, exception to the assessment or determination of tax liability may be filed in the same manner and time as provided in

KRS 131.110. If no exceptions are filed to the tentative assessment or determination, it shall become final.

(3) The ***department***[~~cabinet~~] may require any such taxpayer to file with it forthwith the reports required by law or regulation, or any additional reports or other information necessary to assess the property or determine the amount of tax due.

(4) If the ***department***[~~cabinet~~] fails to exercise the authority conferred by this section, such taxpayer shall report and pay all taxes due as otherwise provided by law.

Section 114. KRS 131.155 is amended to read as follows:

(1) As used in this section, the term "electronic fund transfer" means an electronic data processing medium that takes the place of a paper check for debiting or crediting an account and of which a permanent record is made.

(2) Notwithstanding any statutory provisions to the contrary, the ***department***[~~cabinet~~] may require any person who is required to collect or remit taxes and fees administered by the ***department***[~~cabinet~~] or any person who acts on the taxpayer's behalf to remit those taxes and fees to the ***department***[~~cabinet~~] by electronic fund transfer. The transfer shall be made on or before the date the tax is due using the debit method or other means as prescribed by the ***department***[~~cabinet~~] by the promulgation of an administrative regulation. The ***department***[~~cabinet~~] may permit the filing of the tax return following the date of the tax payment. Payment by electronic fund transfer may be required if:

(a) The average payment per reporting period is ten thousand dollars ($10,000) or more for each tax or fee required to be collected or remitted;

(b) The payment for each tax or fee required to be collected or remitted is made on behalf of one hundred (100) or more taxpayers; or

(c) The aggregate of the funds to be remitted on behalf of others is ten thousand dollars ($10,000) or more for each tax or fee required to be collected or remitted.

(3) The ***department***[~~cabinet~~] shall promulgate administrative regulations establishing electronic fund transfer requirements for the payment of taxes and fees administered by the ***department***[~~cabinet~~].

(4) The ***department***[~~cabinet~~] may waive the requirement that a qualifying taxpayer remit the payment by electronic fund transfer if the taxpayer is unable to remit funds electronically.

(5) Taxpayers and any other persons who are required to collect or remit taxes administered by the ***department***[~~cabinet~~] by electronic fund transfer shall be entitled to receive refunds for any overpayment of taxes or fees, on or after July 1, 2001, by electronic fund transfer.

Section 115. KRS 131.160 is amended to read as follows:

If any taxpayer required to make bond for the payment of taxes fails to pay the taxes when due, the ***department***[~~cabinet~~] shall notify him and his surety by mailing notice to their last known addresses. If, after expiration of a reasonable time from the date of the notice, the amount due remains unpaid, the ***commissioner***[~~secretary~~] shall proceed by suit to collect the amount due, including the penalties, interest and costs. The defaulting taxpayer need not be made a party to any suit brought against his surety.

Section 116. KRS 131.170 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] may, when extension is not otherwise provided for, grant a reasonable extension of time for filing reports or returns whenever, in its judgment, good cause therefor exists. The ***department***[~~cabinet~~] shall keep a record of such extensions. Except where a taxpayer is abroad, no extension shall be granted for more than six (6) months, and in no case for more than one (1) year. If any extension operates to postpone a tax payment, interest at the tax interest rate as defined in KRS 131.010(6) shall be collected. The ***department***[~~cabinet~~] may condition the extension upon a bond sufficient to cover any tax and penalty determined to be due. The ***department***[~~cabinet~~] may, on request, permit a person to file a tax return or report or pay tax on a date other than that prescribed by statute, or to change the fiscal period covered by such return or report, if the variation will not ultimately effect a reduction in revenue.

Section 117. KRS 131.175 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable directly to the ***Department of*** Revenue[~~Cabinet~~], the sheriff or the county clerk, the ***commissioner***[~~secretary~~] shall have authority to waive the penalty, but not interest, where it is shown to the satisfaction of the ***department***[~~cabinet~~] that failure to file or pay timely is due to reasonable cause.

Section 118. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

(1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the ***department***[~~cabinet~~] shall, unless it is shown to the satisfaction of the ***department***[~~cabinet~~] that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars ($10).

(2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the ***department***[~~cabinet~~] or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-

five percent (75%) of the tax determined due by the ***department***~~[cabinet]~~ shall, unless it is shown to the satisfaction of the ***department***~~[cabinet]~~ that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars ($10).

(3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the ***department***~~[cabinet]~~ that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars ($25).

(4) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the ***department***~~[cabinet]~~, the ***department***~~[cabinet]~~ may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars ($100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.

(5) If any taxpayer fails or refuses to pay within forty-five (45) days of the due date any tax assessed by the ***department***~~[cabinet]~~ which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.

(6) Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the ***department***~~[cabinet]~~ within the time required by law shall, unless it is shown to the satisfaction of the ***department***~~[cabinet]~~ that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars ($50).

(7) If any tax assessed by the ***department***~~[cabinet]~~ is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.

(8) If any tax assessed by the ***department***~~[cabinet]~~ is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.

(9) If any check tendered to the ***department***~~[cabinet]~~ is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the ***department***~~[cabinet]~~, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars ($10) nor more than one hundred dollars ($100). If the taxpayer who tendered the check shows to the ***department's***~~[cabinet's]~~ satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the ***department***~~[cabinet]~~ shall waive the penalty.

(10) Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).

(11) The penalties levied pursuant to subsection (5) of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky Board of Tax Appeals or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.

(12) Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.

(13) All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the ***department***~~[cabinet]~~ shall likewise be liable for all penalties and interest applicable thereto.

Section 119. KRS 131.181 is amended to read as follows:

(1) Whenever it is determined that a taxpayer, who holds a license to mine coal in Kentucky under KRS 351.175, is a "delinquent taxpayer" as defined in subsection (3) of this section, the ***Department of*** Revenue~~[Cabinet]~~ shall, after giving notice as provided in subsection (4) of this section, submit the name of the taxpayer to the Department of Mines and Minerals for revocation of the license issued under KRS 351.175.

(2) If it is determined that a person who is an agent, contract miner, or delegate of a delinquent taxpayer as defined in subsection (3) holds a license to mine coal for the delinquent taxpayer in Kentucky under KRS 351.175, the ***Department of*** Revenue~~[Cabinet]~~ shall, after giving notice as provided in subsection (4) of this section, submit the name of the agent, contract miner, or delegate to the Department of Mines and Minerals for revocation of the license issued under KRS

351.175 to mine coal for the delinquent taxpayer.

(3) Any of the following situations is sufficient to cause a taxpayer to be classified as a "delinquent taxpayer" for purposes of this section:

(a) When a taxpayer has an overdue state tax liability arising directly or indirectly from the mining, transportation, or processing of coal, for which all protest and appeal rights granted by law have expired and has been contacted by the ***department***~~[cabinet]~~ concerning the overdue tax liability. This does not include a taxpayer who is making current timely installment payments on the overdue tax liability under agreement with the ***department***~~[cabinet]~~.

(b) When a taxpayer has not filed a required tax return as of thirty (30) days after the due date or after the extended due date, and has been contacted by the ***department***~~[cabinet]~~ concerning the delinquent return. This applies only to tax returns required as the result of the taxpayer's involvement in the mining, transportation, or processing of coal.

(c) When an owner, partner, or corporate officer of a proprietorship, partnership, or corporation holding a license under KRS 351.175, held a similar position in a business whose license was revoked as a "delinquent taxpayer", and the tax liability remains unpaid.

(4) At least twenty (20) days in advance of submitting a taxpayer's name to the Department of Mines and Minerals as provided in subsection (1) or (2) of this section, the ***department***~~[cabinet]~~ shall notify the taxpayer by certified mail that the action is to be taken. The notice shall state the reason for the action and shall set out the amount of any tax liability including any applicable penalties and interest and any other area of noncompliance which must be satisfied in order to prevent the submission of his name to the Department of Mines and Minerals as a "delinquent taxpayer."

(5) If it is determined that an applicant for a license to mine coal under the provisions of KRS 351.175 is a delinquent taxpayer as defined in subsection (3) of this section, or is an agent, contract miner, or delegate of a delinquent taxpayer, the Department of Mines and Minerals shall refuse a mine license to the applicant.

Section 120. KRS 131.1815 is amended to read as follows:

(1) Whenever it is determined that a taxpayer, who holds a license under KRS Chapter 243, is a delinquent taxpayer as defined in subsection (2) of this section, the ***department***~~[cabinet]~~ may, after giving notice as provided in subsection (3) of this section, submit the name of the taxpayer to the Department of Alcoholic Beverage Control for revocation of any license issued under KRS Chapter 243.

(2) Any of the following situations shall be sufficient to cause a taxpayer to be classified as a "delinquent taxpayer" for purposes of this section:

(a) When a taxpayer has an overdue state tax liability arising directly or indirectly from the manufacture, sale, transportation, or distribution of alcoholic beverages, for which all protest and appeal rights granted by law have expired, and the taxpayer has been contacted by the ***department***~~[cabinet]~~ concerning the overdue tax liability. This does not include a taxpayer who is making current timely installment payments on the overdue tax liability under agreement with the ***department***~~[cabinet]~~.

(b) When a taxpayer has not filed a required tax return as of ninety (90) days after the due date or after the extended due date, and the taxpayer has been contacted by the ***department***~~[cabinet]~~ concerning the delinquent return.

(c) When an owner, partner, or corporate officer of a proprietorship, partnership, or corporation holding a license under KRS Chapter 243 held a similar position in a business whose license was revoked as a "delinquent taxpayer," and the tax liability remains unpaid as of ninety (90) days after the due date.

(3) At least twenty (20) days before submitting a taxpayer's name to the Department of Alcoholic Beverage Control as provided in subsection (1) of this section, the ***department***~~[cabinet]~~ shall notify the taxpayer by certified mail that the action is to be taken. The notice shall state the reason for the action and shall set out the amount of any tax liability including any applicable penalties and interest and any other area of noncompliance that must be satisfied in order to prevent the submission of his name to the Department of Alcoholic Beverage Control as a delinquent taxpayer.

Section 121. KRS 131.183 is amended to read as follows:

(1) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The ***commissioner***~~[secretary]~~ of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.

(2) Interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes at the rate provided in subsection (1) above. Except for the provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3) of this section, interest authorized under this subsection shall begin to accrue sixty (60) days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than five dollars ($5).

(3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the tax imposed under KRS Chapter 141 results from a carryback of a net operating loss or a net capital loss, the overpayment shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.

(4) No interest shall be allowed or paid on any sales tax refund as provided by KRS 139.536.

Section 122. KRS 131.185 is amended to read as follows:

Income tax returns shall be kept for five (5) years; primary accounting records of tax payments, seven (7) years; and records containing all data of motor vehicle registration, three (3) years. Records of the ***department***[~~cabinet~~] which are not required by this section or other statutory provisions to be preserved for a fixed period may be kept or disposed of according to the discretion of the ***department***[~~cabinet~~].

Section 123. KRS 131.190 is amended to read as follows:

(1) No present or former ***commissioner***[~~secretary~~] or employee of the ***Department of*** Revenue[~~ Cabinet~~], ***present or former*** member of a county board of assessment appeals, ***present or former*** property valuation administrator or employee, ***present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet,*** or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the ***department***[~~cabinet~~] or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the ***commissioner***[~~secretary~~] or any employee of the ***Department of*** Revenue[~~ Cabinet~~] from testifying in any court, or from introducing as evidence returns or reports filed with the ***department***[~~cabinet~~], in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The ***commissioner***[~~secretary~~] or the ***commissioner's***[~~secretary's~~] designee may provide an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer.

(2) The ***commissioner***[~~secretary~~] shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the ***department***[~~cabinet~~] shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the ***Department of*** Revenue[~~ Cabinet~~] under the gasoline excise tax law may be made public by the ***department***[~~cabinet~~].

(4) ***Access to and inspection of information received from the Internal Revenue Service is for Department of Revenue use only, and is restricted to tax administration purposes.*** Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present ***secretary or employee of the Finance and Administration Cabinet, commissioner***[~~secretary~~] or employee of the ***Department of*** Revenue[~~ Cabinet~~], or any other person.

(5) Statistics of crude oil as reported to the ***Department of*** Revenue[~~ Cabinet~~] under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the ***Department of*** Revenue[~~ Cabinet~~] under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the ***department***[~~cabinet~~] by release to the Department of Mines and Minerals.

(6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the ***department***[~~cabinet~~] may make public or divulge only those portions of mine maps submitted by taxpayers to the ***department***[~~cabinet~~] pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

Section 124. KRS 131.191 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall not enter into any contract with the Department of Corrections, the United States Government, any local government, or any private contractor operating a correctional institution on behalf of the Department of Corrections, the United States Government, or any local government for the use or employment of prisoners in any capacity that allows prisoners access to taxpayer information, including, but not limited to, tax returns, informational reporting returns, social security numbers, telephone numbers, or addresses.

Section 125. KRS 131.192 is amended to read as follows:

Whenever it becomes necessary within the discretion of the ***commissioner***[~~secretary~~] of revenue to photostat, duplicate, publish or supply for the use and benefit of persons or agencies, other than agencies of state government, information contained in official records of the ***Department of*** Revenue[~~Cabinet~~], whose contents are not confidential according to law, the ***Department of*** Revenue[~~Cabinet~~] is hereby authorized to photostat, duplicate or publish the said information and supply the same to the requesting person or agency. For such services the ***department***[~~cabinet~~] may charge a fee which will be adequate to cover the expenses of photostating, duplicating or publishing such information and any expense incidental to supplying the same.

Section 126. KRS 131.194 is amended to read as follows:

All money received by the ***Department of*** Revenue[~~Cabinet~~], for supplying to persons or agencies other than state agencies information which is contained in the official files of the ***department***[~~cabinet~~], shall be promptly deposited with the State Treasurer in the same manner as provided by law for other deposits. The amount of money so deposited shall be treated as a reimbursement to the appropriation of the ***Department of*** Revenue[~~Cabinet~~] from which the disbursements were made for expenses incurred in performing the services authorized by KRS 131.192.

Section 127. KRS 131.205 is amended to read as follows:

(1) Any field representative of the ***Department of*** Revenue[~~Cabinet~~] who is authorized to collect taxes or money due the Commonwealth may deposit to his special account as field representative of the ***department***[~~cabinet~~] any money so collected in a state or national bank in this Commonwealth.

(2) He shall within forty-eight (48) hours after making such deposits draw a check or checks payable to the State Treasurer for the full amount of the deposit and mail same to the ***department***[~~cabinet~~] or transmit same in a manner approved by the ***department***[~~cabinet~~]. Nothing in this section shall be construed as authorizing any field representative of the ***department***[~~cabinet~~] to enforce or cash, even for the purpose of a deposit, any check or other instrument of value payable to the Commonwealth or any agency thereof.

(3) Deposits shall be made in such banks as the ***department***[~~cabinet~~] may by regulation designate, and subject to such further conditions as the ***department***[~~cabinet~~] may prescribe. Any reasonable service charges made by the bank may be paid by the ***department***[~~cabinet~~] from its appropriation as other claims against it are paid.

Section 128. KRS 131.210 is amended to read as follows:

Any field agent, accountant or attorney, when authorized in writing by the ***commissioner***[~~secretary~~] of revenue, may investigate the accounts, books and records of all officers whose duty it is to receive or collect money due the state, county, school district or other taxing district, and report to the ***commissioner***[~~secretary~~] all delinquent officers and the amounts collected by them which they have failed to pay into the State Treasury, or into the treasury of the county, school district or other taxing district. Every such field agent, accountant or attorney shall report to the fiscal court of the county all delinquent officers and the amounts owing by them to the county and all amounts which such officers should have collected and which they failed to collect, and the person owing same. Every field agent, accountant or attorney shall report all excessive charges made by such officers, and shall report all officers who have received or retained a greater sum for their services or the services of their deputies than is allowed by law. Every field agent, accountant or attorney shall report all other facts by which any taxing authority is being unlawfully deprived of any money, and any other facts that he deems important touching the interest of any taxing authority, or of which the ***commissioner***[~~secretary~~] of revenue, county attorney, county judge/executive or fiscal court may require information.

Section 129. KRS 131.320 is amended to read as follows:

(1) Each member of the Kentucky Board of Tax Appeals shall be a person at least thirty-five (35) years of age. One (1) member shall be an attorney with the qualifications required of candidates for Circuit Judge. The other two (2) members shall be persons with a general business background except that not all of the members shall be of the same occupation or profession.

(2) The Governor may remove any member of the board for cause after giving him an opportunity for a hearing conducted in accordance with KRS Chapter 13B. If a member of the board is removed, the Governor shall file in the office of the Secretary of State a copy of the final order in the proceeding.

(3) The members of the board shall receive an annual salary to be fixed by the Governor.

(4) The principal office of the board shall be at Frankfort, Kentucky. A majority of the board may hold hearings outside of Frankfort or as provided in KRS 131.355(2), with a view to securing opportunity to taxpayers to appear before it with as little inconvenience and expense as practicable. The office of the board shall be open during regular working hours for the conduct of its business.

(5) The chairman of the Board of Tax Appeals shall conduct an orientation and training session for each new member of the board. The chairman of the Board of Tax Appeals shall conduct an annual seminar for all three (3) members of the board to discuss new legislation, pertinent court decisions, and ***department***[~~cabinet~~] policies and procedures.

Section 130. KRS 131.340 is amended to read as follows:

(1) The Kentucky Board of Tax Appeals is hereby vested with exclusive jurisdiction to hear and determine appeals from final

rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation. Administrative hearings before the Kentucky Board of Tax Appeals shall be de novo and conducted in accordance with KRS Chapter 13B.

(2) Any state or county agency charged with the administration of any taxing or licensing measure which is under the jurisdiction of the board shall mail by certified mail notice of its ruling, order, or determination within three (3) working days from the date of the decision.

(3) Any party, including the Attorney General, on behalf of the Commonwealth, aggrieved by any ruling, order, or determination of any state or county agency charged with the administration of any taxing or licensing measure, may prosecute an appeal to the board by filing a complaint or petition of appeal before the board within thirty (30) days from the date of the mailing of the agency's ruling, order, or determination.

(4) If the ***Department of*** Revenue[~~ Cabinet~~] is aggrieved by the decision of any county board of assessment appeals on an assessment recommended by the ***department***[~~cabinet~~] and prosecutes an appeal to the Kentucky Board of Tax Appeals as authorized in subsection (3) of this section, the ***commissioner***[~~secretary~~] of revenue shall, within twenty (20) days, certify in writing to the Kentucky Board of Tax Appeals the assessment recommended.

(5) The Kentucky Board of Tax Appeals shall immediately forward copies of the certification to the parties to the appeal. The assessed value shall be prima facie evidence of the value at which the property should be assessed.

Section 131. KRS 131.355 is amended to read as follows:

(1) All proceedings before the board shall be officially reported and all records of proceedings shall be public records, except in cases of appeals of unmined mineral assessments where the records before the board include information provided to the ***Department of*** Revenue[~~ Cabinet~~] by the taxpayer or its lessees, and were generated at the taxpayer's expense. Furthermore, no recorded or transcribed testimony concerning these records shall be considered a public record. Examples of these records would include, but are not limited to, mineral exploration records; photographs; core data information; maps whether acquired for ownership information, for coal seam thickness, for depletion by mining or otherwise; and/or records calculating production or reserves, leased and/or unleased. Neither records containing confidential information nor testimony concerning same shall be disclosed to parties outside the appeals proceedings. A protective order shall be entered and shall remain in effect during the entire appeals process, including appeals to the courts, and thereafter, preventing the parties, their agents and representatives, except the taxpayer, from disclosing the information.

(2) All appeals to the Kentucky Board of Tax Appeals shall be heard by the full board, but one (1) member or a hearing officer may be authorized to hear an individual appeal. The final order in any appeal heard by a single member or a hearing officer shall be made and entered by a majority of the board.

Section 132. KRS 131.400 is amended to read as follows:

(1) KRS 131.410 to 131.445 shall be known as and may be cited as the "Kentucky Tax Amnesty Act."

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall develop and administer a tax amnesty program as provided in KRS 131.410 to 131.445.

(3) As used in KRS 131.410 to 131.445, unless the context requires otherwise:

(a) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(b) "Taxpayer" means any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, limited liability company, limited liability partnership, or any other entity of any kind subject to any tax set forth in subsection (4) of this section or any person required to collect any such tax under subsection (4) of this section.

(c) "Account receivable" means an amount of state tax, penalty, fee, or interest which has been recorded as due and entered in the account records of the ***department***[~~cabinet~~], or which the taxpayer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation which the taxpayer knows is being conducted by any governmental taxing authority, federal, state, or local.

(d) "Due and owing" means an assessment which has become final and is owed to the Commonwealth due to either the expiration of the taxpayer's appeal rights pursuant to KRS 131.110 or, if an assessment has been appealed to the board of tax appeals, the rendition of a final order by the board or by any court of this Commonwealth. For the purposes of KRS 131.410 to 131.445, assessments that have been appealed to the board of tax appeals shall be final, due and owing fifteen (15) days after the last unappealed or unappealable order sustaining the assessment or any part thereof has become final.

(4) Notwithstanding the provisions of any other law to the contrary, the tax amnesty program shall be conducted by the ***department***[~~cabinet~~] during the fiscal year ending June 30, 2003, for a period of not less than sixty (60) days nor more than one hundred and twenty (120) days and shall apply to all taxpayers owing taxes, penalties, fees, or interest subject to the administrative jurisdiction of the ***department***[~~cabinet~~], with the exceptions of ad valorem taxes levied on real property pursuant to KRS Chapter 132, ad valorem taxes on motor vehicles and motorboats collected by the county clerks, and ad valorem taxes on personal property levied pursuant to KRS Chapter 132 that are payable to local officials. The program shall apply to tax liabilities for taxable periods ending or transactions occurring after December 1, 1987, but prior to

December 1, 2001. Amnesty tax return forms shall be in a form prescribed by the ***department***~~[cabinet]~~.

Section 133. KRS 131.410 is amended to read as follows:

(1) For any taxpayer who meets the requirements of KRS 131.420:

(a) For taxes which are owed as a result of the nonreporting or underreporting of tax liabilities or the nonpayment of any account receivable owed by an eligible taxpayer, the Commonwealth shall waive criminal prosecution and all civil penalties and fees which may be assessed under any KRS chapter subject to the administrative jurisdiction of the ***department***~~[cabinet]~~ for the taxable years or periods for which tax amnesty is requested, plus all of the interest as provided in subsection (1) of KRS 131.425.

(b) With the exception of instances in which the taxpayer and ***department***~~[cabinet]~~ enter into an installment payment agreement authorized under subsection (3) of KRS 131.420, The failure to pay all taxes as shown on the taxpayer's amnesty tax return shall invalidate any amnesty granted pursuant to KRS 131.410 to 131.445.

(2) This section shall not apply to any taxpayer who is on notice, written or otherwise, of a criminal investigation being conducted by an agency of the state or any political subdivision thereof or the United States, nor shall this section apply to any taxpayer who is the subject of any criminal litigation which is pending on the date of the taxpayer's application in any court of this state or the United States for nonpayment, delinquency, evasion or fraud in relation to any federal taxes or to any of the taxes to which this amnesty program is applicable.

(3) No refund or credit shall be granted for any interest, fee, or penalty paid prior to the time the taxpayer requests amnesty pursuant to KRS 131.420.

(4) Unless the ***department***~~[cabinet]~~ in its own discretion redetermines the amount of taxes due, no refund or credit shall be granted for any taxes paid under the amnesty program.

Section 134. KRS 131.420 is amended to read as follows:

(1) The provisions of KRS 131.400 to 131.445 shall apply to any eligible taxpayer who files an application for amnesty within the time prescribed by the ***department***~~[cabinet]~~ and does the following:

(a) Files completed tax returns for all years or tax reporting periods as stated on the application for which returns have not previously been filed and files completed amended tax returns for all years or tax reporting periods as stated on the application for which the tax liability was underreported, except in cases in which the tax liability has been established through audit.

(b) Pays in full the taxes due for the periods and taxes applied for at the time the application or amnesty tax returns are filed within the amnesty period and pays the amount of any additional tax owed within thirty (30) days of notification by the ***department***~~[cabinet]~~.

(c) Pays in full within the amnesty period all taxes previously assessed by the ***department***~~[cabinet]~~ that are due and owing at the time the application or amnesty tax returns are filed.

(2) An eligible taxpayer may participate in the amnesty program whether or not the taxpayer is under audit, notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the ***department***~~[cabinet]~~, and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. An eligible taxpayer may participate in the amnesty program to the extent of the uncontested portion of any assessed liability. However, participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under the program is barred with respect to the amounts paid with the application or amnesty returns.

(3) The ***department***~~[cabinet]~~ may enter into an installment payment agreement as provided in KRS 131.081(9) in cases of severe hardship in lieu of the complete payment required under subsection (1) of this section. Failure of the taxpayer to make timely payments shall void the terms of the amnesty program. All such agreements and payments shall include interest as provided under subsection (2) of KRS 131.425.

(4) If, following the termination of the tax amnesty period, the ***department***~~[cabinet]~~ issues a deficiency assessment based upon information independent of that shown on a return filed pursuant to subsection (1) of this section, the ***department***~~[cabinet]~~ shall have the authority to impose penalties and criminal action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty tax return and the correct amount of tax due. The imposition of penalties or criminal action shall not invalidate any waiver granted under KRS 131.410. With the exception of the cost of collection fee imposed under subsection (1) of KRS 131.440, all assessments issued by the ***department***~~[cabinet]~~ under KRS 131.410 to 131.445 may be protested by the taxpayer in the same manner as other assessments pursuant to the terms of this chapter.

Section 135. KRS 131.430 is amended to read as follows:

The ***department***~~[cabinet]~~ shall promulgate administrative regulations as necessary, issue forms and instructions, and take all actions necessary to implement the provisions of KRS 131.410 to 131.445. The ***department***~~[cabinet]~~ shall extensively publicize the tax amnesty program in order to maximize the public awareness of and participation in the program.

Section 136. KRS 131.440 is amended to read as follows:

(1) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, and 131.990 and any other law, there

is hereby imposed after the expiration of the tax amnesty period the following cost of collection fees:

(a) A cost of collection fee of twenty-five percent (25%) on all taxes which are or become due and owing to the ***department***[~~cabinet~~] for any reporting period, regardless of when due. This fee shall be in addition to any other applicable fee provided in this subsection;

(b) Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to December 1, 2001, shall be charged a cost of collection fee of twenty-five percent (25%) at the time of assessment; and

(c) For any taxpayer who failed to file a return for any previous tax period for which amnesty is available and fails to file the return during the amnesty period, the cost of collection fee shall be fifty percent (50%) of any tax deficiency assessed after the amnesty period.

(2) The ***commissioner***[~~secretary~~] of revenue shall have the right to waive any penalties or collection fees when it is demonstrated that any deficiency of the taxpayer was due to reasonable cause as defined in KRS 131.010(9). However, any taxes that cannot be paid under the amnesty program because of the exclusions in subsection (2) of KRS 131.410 shall not be subject to these fees.

(3) The provisions of subsection (1) of this section shall not relate to any account which has been protested pursuant to KRS 131.110 as of the expiration of the amnesty period and which does not become due and owing, or to any account on which the taxpayer is remitting timely payments under a payment agreement negotiated with the ***department***[~~cabinet~~] prior to or during the amnesty period.

(4) The fee levied under subsection (1) of this section shall not apply to taxes paid pursuant to the terms of the amnesty program nor shall the judgment penalty of twenty percent (20%) levied under KRS 135.060(3) apply in any case in which the fee levied under this section is applicable.

Section 137. KRS 131.445 is amended to read as follows:

(1) After the expiration of the tax amnesty period, the ***department***[~~cabinet~~] shall vigorously pursue all civil, administrative, and criminal penalties authorized by state and federal law for all taxes found to be due the Commonwealth.

(2) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, and 131.990 and any other law, any taxpayer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.

Section 138. KRS 131.500 is amended to read as follows:

(1) In addition to any other remedy provided by the laws of the Commonwealth, if any person has been assessed for a tax the collection of which is administered by the ***Department of*** Revenue[~~ Cabinet~~] as provided by the laws of the Commonwealth and if the person has not sought administrative or judicial review of the assessment as provided for in KRS 131.110, or if the person has sought but exhausted all administrative and judicial review so that the assessment is final, due, and owing, the ***commissioner***[~~secretary~~] of revenue or his delegate may cause a demand to be made on the person for the payment thereof. If the tax remains unpaid for thirty (30) days after the demand, the ***commissioner***[~~secretary~~] or his delegate may levy upon and sell all property and rights to property found within the Commonwealth belonging to the person or on which there is a lien provided by KRS 134.420, except the property that is exempt from an execution on a judgment in favor of the Commonwealth as provided in KRS Chapter 427, for the payment of the amount of the tax, penalty, interest, and cost of the levy.

(2) As soon as practicable after seizure of property, notice in writing shall be given by the ***commissioner***[~~secretary~~] or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his last known address. The notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(3) The ***commissioner***[~~secretary~~] or his delegate shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county wherein such seizure is made. The notice shall be published once each week for three (3) successive weeks. In addition, the notice shall be posted at the courthouse and three (3) other public places in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.

(4) If any property liable to levy is not divisible, so as to enable the ***commissioner***[~~secretary~~] or his delegate by sale of a part thereof to raise the whole amount of the tax, penalty, interest, and cost of the levy, the whole of the property shall be sold.

(5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the ***commissioner***[~~secretary~~].

(6) The sale shall not be conducted in any manner other than by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the ***commissioner***[~~secretary~~] or his delegate may offer the items for sale separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.

(7) The ***commissioner***[~~secretary~~] or his delegate shall determine whether payment in full shall be required at the time of acceptance of a bid, or whether a part of the payment may be deferred for such period, not to exceed one (1) month, as he may determine to be appropriate. If payment in full is required at the time of acceptance of a bid and is not then and there paid, the ***commissioner***[~~secretary~~] or his delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin Circuit Court or the Circuit Court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the ***commissioner***[~~secretary~~], the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. If readvertisement and sale occur, any new purchaser shall receive the property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by the defaulting purchaser shall be forfeited.

(8) If the ***commissioner***[~~secretary~~] or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense, he shall appraise the value of the property and, if the owner of the property can be readily found, the ***commissioner***[~~secretary~~] or his delegate shall give him notice of the determination of the appraised value of the property. The property shall be returned to the owner if, within the time specified in the notice, the owner pays to the ***commissioner***[~~secretary~~] or his delegate an amount equal to the appraised value, or gives bond in the form, with the sureties, and in the amount as the ***commissioner***[~~secretary~~] or his delegate determines to be appropriate in the circumstances. If the owner does not pay the amount or furnish the bond in accordance with this subsection, the ***commissioner***[~~secretary~~] or his delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.

(9) No proceedings under this section shall be commenced more than ten (10) years after the assessment becomes final.

(10) The term "levy" as used in this section shall include the power of distraint and seizure by any means. Except as otherwise provided in KRS 131.510(2)(a), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the ***commissioner***[~~secretary~~] or his delegate may levy upon property or rights to property, he may seize and sell the property or rights whether real, personal, tangible or intangible.

(11) Notwithstanding the provisions of KRS Chapters 45, 45A, and 56, the ***department***[~~cabinet~~] may take all necessary steps to provide for the protection, maintenance, or transportation of all property seized by the ***department***[~~cabinet~~] pursuant to the provisions of this section, including, but not limited to, negotiating directly for the procurement of contractual services, including professionals, supplies, materials, equipment, or the leasing of real and personal property. Every effort shall be made to effect a competitively established price for purchases made pursuant to this section. The ***department***[~~cabinet~~] shall report any procurements of contractual services, supplies, materials, equipment, or the leasing of real and personal property, to the secretary of the Finance and Administration Cabinet within sixty (60) days of the transaction. Nothing in this section shall preclude the ***department***[~~cabinet~~] from complying with the provisions of KRS Chapters 45 and 56 relating to the requirements to report the purchase or lease of real property or equipment to the Capital Projects and Bond Oversight Committee.

Section 139. KRS 131.510 is amended to read as follows:

(1) Levy may be made with respect to any unpaid tax only after the ***department***[~~cabinet~~] has given notice and demand to such person in writing of the intention to make such levy. Such notice and demand shall be given in person, or shall be sent by certified mail to such person's last known address, no less than ten (10) days before the date of levy.

(2) (a) The effect of a levy on salary or wages payable to or received by a person shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

(b) With respect to a levy described in paragraph (a) of this subsection, the ***department***[~~cabinet~~] shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released.

Section 140. KRS 131.520 is amended to read as follows:

(1) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made shall, upon demand of the ***commissioner***[~~secretary~~] or his delegate, surrender such property or rights or discharge such obligation to the ***commissioner***[~~secretary~~] or his delegate, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(2) Any person who fails or refuses to surrender any property or rights to property subject to levy shall be liable in his own person and estate to the Commonwealth in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of twelve percent (12%) per annum from the date of such levy. Any amount other than costs recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(3) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made who, upon demand by the ***commissioner***[~~secretary~~] or his delegate, surrenders such property or rights to

property or discharges such obligation to the ***commissioner***[~~secretary~~] or his delegate shall be discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property arising from such surrender or payment.

Section 141. KRS 131.530 is amended to read as follows:

(1) Any person whose property has been levied upon shall have the right to pay the amount due, together with the expense of the proceeding, to the ***commissioner***[~~secretary~~] or his delegate at any time prior to the sale thereof and upon such payment the ***commissioner***[~~secretary~~] or his delegate shall cause such property to be restored to him and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(2) The owner of any real property sold as provided in KRS 131.500(1), his heirs, executors, or administrators, or any person having an interest therein, or a lien thereon, or any person in his behalf, shall be permitted to redeem the real property sold or any particular tract of such property, at any time within one hundred twenty (120) days after the date of the sale. Such property or tract of property shall be permitted to be redeemed only upon payment to the purchaser, or in case he cannot be found in the county in which the property to be redeemed is situated, then to the ***commissioner***[~~secretary~~] or his delegate, for the use of the purchaser, his heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of twenty percent (20%) per annum from the date of sale.

(3) In the case of property sold pursuant to KRS 131.500(1), the ***commissioner***[~~secretary~~] or his delegate shall give to the purchaser a certificate of sale upon payment in full of the purchase price. The certificate shall set forth a description of the property purchased, for whose taxes the property was sold, and the price paid therefor.

(4) In all cases where property is sold pursuant to KRS 131.500(1), except real property, the certificate of sale issued pursuant to subsection (3) of this section shall have the following effect:

(a) Shall be prima facie evidence of the rights of the ***commissioner***[~~secretary~~] or his delegate to make such sale, and of the regularity of the proceeding of the sale; and

(b) Shall transfer to the purchaser all right, title and interest of the taxpayer in and to the property sold; and

(c) If such property consists of stock, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any prior certificate, which shall be void, whether canceled or not; and

(d) If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(e) If such property consists of a motor vehicle, shall be notice, when received by any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior title, which shall be void, whether canceled or not.

(5) In the case of any real property sold pursuant to KRS 131.500(1) and not redeemed in the manner and within the time provided in subsection (2) of this section, the ***commissioner***[~~secretary~~] or his delegate shall execute in accordance with the laws of the Commonwealth, to the purchaser of such real property upon surrender of the certificate of sale, a deed to the real property so purchased by him, reciting the facts set forth in the certificate. The deed executed pursuant to this subsection shall have the following effect:

(a) Shall be prima facie evidence of the rights of the ***commissioner***[~~secretary~~] or his delegate to make such sale, and of the regularity of the proceedings of the sale; and

(b) If the proceedings of the ***commissioner***[~~secretary~~] or his delegate have been substantially in accordance with the provisions of KRS 131.500, such deed shall be considered and operate as a conveyance of all right, title and interest the taxpayer has in and to the real property thus sold at the time the lien of the Commonwealth attached thereto.

(6) A certificate of sale of personal property given or a deed to real property executed pursuant to this section shall discharge such property from all liens, encumbrances, and titles over which the lien of the Commonwealth, with respect to which the levy was made, had priority.

Section 142. KRS 131.540 is amended to read as follows:

(1) It shall be lawful for the ***commissioner***[~~secretary~~] or his delegate, under regulations prescribed by the ***commissioner***[~~secretary~~], to release the levy upon all or part of the property or rights to property levied upon where the ***commissioner***[~~secretary~~] or his delegate determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.

(2) If the ***commissioner***[~~secretary~~] determines that property has been wrongfully levied upon, it shall be lawful for the ***commissioner***[~~secretary~~] to return the specific property levied upon, or an amount of money equal to the amount of money levied upon, or any amount of money equal to the amount of money received by the ***commissioner***[~~secretary~~] from a sale of such property.

(3) Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of four (4) years from the date of such levy.

Section 143. KRS 131.550 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] reasonably believes that any taxpayer has divested himself by gift, conveyance, assignment, transfer of, or charge upon any property, whether real, personal, tangible or intangible, with the intent to hinder or evade the collection of any tax assessed or to be assessed by the ***department***[~~cabinet~~] or declared by the taxpayer on a return filed with the ***department***[~~cabinet~~], any transferee of such property may be assessed by the ***Department of*** Revenue[~~ Cabinet~~] an amount equal to the lesser of the amount of tax assessed against the transferor taxpayer or the fair market value of the property so transferred. However, no assessment shall be made pursuant to this section against a transferee who takes the property for full and valuable consideration in money or money's worth, unless it appears that such transferee had notice of the intent of the transferor taxpayer to hinder or evade the collection of any tax.

(2) Any assessment made by the ***Department of*** Revenue[~~ Cabinet~~] against a transferee pursuant to subsection (1) of this section is, except as provided in this section, subject to the same provisions and limitations as in the case of the taxes for which the liabilities were incurred.

(3) The period of limitation for assessment of any liability against a transferee pursuant to subsection (1) of this section shall be as follows:

(a) In the case of an initial transferee, within one (1) year after the expiration of the period of limitation for assessment against the transferor taxpayer; and

(b) In the case of the liability of a transferee of a transferee, within one (1) year after the expiration of the period of limitation for assessment against the preceding transferee, but not more than three (3) years after the expiration of the period of limitation for assessment against the initial transferor taxpayer.

(4) The notice of any assessment against a transferee made pursuant to subsection (1) of this section shall be either given to the transferee in person or sent by mail to such transferee's last known address.

Section 144. KRS 131.560 is amended to read as follows:

Notwithstanding the provisions of KRS 44.030 or 131.190, the ***Department of*** Revenue[~~ Cabinet~~] shall withhold the Kentucky individual income tax refund otherwise due a taxpayer under KRS Chapter 141 who owes overdue child support or is indebted to any state agency, officer, board, commission, corporation, institution, cabinet, department or other state organization which has complied with the requirements of KRS 131.565. After satisfaction of any undisputed delinquent tax liability due the ***Department of*** Revenue [~~Cabinet~~]from such taxpayer, the tax refund balance so withheld shall, except as provided in KRS 131.565, be transmitted as soon as practicable to the state agency having established a claim therefor. In the case of multiple state agency claims against the same tax refund, the agency having the larger pending claim shall have priority after satisfaction of any undisputed delinquent tax liabilities due the ***Department of*** Revenue[~~ Cabinet~~].

Section 145. KRS 131.565 is amended to read as follows:

(1) For purposes of this section, "state agency" or "state agencies" shall include the Court of Justice as defined in KRS 45.241.

(2) No state agency shall request the withholding of any individual income tax refund unless there is specific provision in statute or administrative regulation for debtor appeal and hearing rights for that particular debt.

(3) State agencies having the statutory and regulatory provisions described in subsection (2) of this section shall establish claims against Kentucky individual income tax refunds by notifying the ***commissioner***[~~secretary~~] of revenue in writing by a date established by the ***Department of*** Revenue[~~ Cabinet~~] and, by dates agreed to by the ***Department of*** Revenue[~~ Cabinet~~] and each state agency, shall furnish a list of all liquidated debts due the agency for which withholding is required for individual income tax refunds due to be paid to the debtor of the claimant agency. This list shall be submitted in such form and contain such information as may be required by the ***commissioner***[~~secretary~~] of revenue to facilitate identification of the refunds to be withheld. As used in this section the term "liquidated debt" means a legal debt for a sum certain, which has been certified by the claimant agency as final due and owing. The claimant agency must have made reasonable efforts to collect such debt, and must have provided the debtor the opportunity for appeal and formal hearing as provided by statute. The claimant agency shall send thirty (30) days' prior written notification to the debtor of the intention to submit the claim to the ***Department of*** Revenue[~~ Cabinet~~] for setoff as provided in KRS 131.570.

(4) The individual income tax refund withholding procedures provided in KRS 131.560 to 131.595 shall be in lieu of the procedures set forth in KRS 427.130 and 44.030 only with regard to sums due to a debtor from the ***Department of*** Revenue[~~ Cabinet~~].

(5) No state agency shall request the withholding of any individual income tax refund unless the debt for which withholding is requested is in a liquidated amount.

(6) Each state agency requesting the withholding of any individual income tax refund shall indemnify the ***Department of*** Revenue[~~ Cabinet~~] against any and all damages, court costs, attorneys fees and any other expenses related to litigation which arises concerning the administration of KRS 131.560 to 131.595 as it pertains to a refund withholding action requested by such agency.

(7) Those state agencies requesting the withholding of individual income tax refunds shall, on a per unit cost or other

equitable basis determined by the ***Department of*** Revenue[~~Cabinet~~], reimburse the ***Department of*** Revenue[~~Cabinet~~] for all development, implementation and administration costs incurred but not otherwise funded under the provisions of KRS 131.560 to 131.595.

(8) The ***Department of*** Revenue[~~Cabinet~~] may decline the withholding of individual income tax refunds from agencies if the request would adversely impact the operation of the ***Department of*** Revenue[~~Cabinet~~].

Section 146. KRS 131.570 is amended to read as follows:

(1) Upon determining that a pending individual income tax refund is subject to setoff as authorized under this section, the debtor shall be notified in writing by the ***Department of*** Revenue[~~Cabinet~~] of the claim made against such refund by the named claimant agency, and of the ***Department of Revenue's***[~~Revenue Cabinet's~~] intention to set off the refund against the debt to the claimant agency. The notice shall provide that the debtor within thirty (30) days from the date of the notice may request a hearing before the claimant agency as provided by statute. No issues at such hearing may be considered that have been litigated previously and the debtor, after being given due notice of rights of appeal, must exercise such rights in a timely manner. The decision of the claimant agency shall be subject to appeal as all other decisions rendered by the claimant agency. No funds shall be transferred to a claimant agency until the debtor's appeal rights have been exhausted.

(2) Any excess of the pending refund amount over the total claim filed against such refund shall be promptly issued to the taxpayer by the ***Department of*** Revenue[~~Cabinet~~].

(3) In the event funds transmitted to a claimant agency are subsequently determined by the claimant agency to be in excess of the liquidated debt, such claimant agency shall promptly refund the excess to the taxpayer.

(4) In the event the ***Department of*** Revenue[~~Cabinet~~] erroneously transfers funds to a claimant agency, the claimant agency shall immediately upon notification thereof reimburse the ***Department of*** Revenue[~~Cabinet~~] for the amount erroneously transmitted to such agency. The ***Department of*** Revenue[~~Cabinet~~] shall promptly refund to the taxpayer the appropriate amount of such returned funds with interest as provided in KRS 131.183(2).

Section 147. KRS 131.575 is amended to read as follows:

(1) Any individual income tax refund determined as a consequence of taxpayers filing separate returns on a combined Kentucky individual income tax form may be apportioned by the ***Department of*** Revenue[~~Cabinet~~] between the spouses based on the ratio of the adjusted gross incomes of each spouse to the total adjusted gross income. The amount of the refund computed to be due the spouse who is not indebted to the claimant agency shall be refunded by the ***Department of*** Revenue[~~Cabinet~~] to such spouse. In the event such refunded amount has been transmitted to the claimant agency, the ***Department of*** Revenue[~~Cabinet~~] shall recover such amount from the claimant agency as provided in KRS 131.570(4).

(2) Any individual income tax refund determined as a consequence of taxpayers filing a joint Kentucky individual income tax return shall be deemed as coupled together in interest or liability and shall be subject to transfer to a claimant agency in its entirety.

Section 148. KRS 131.580 is amended to read as follows:

The ***Department of*** Revenue[~~Cabinet~~] may promulgate rules and regulations necessary to develop, implement and administer the provisions of KRS 131.560 to 131.595.

Section 149. KRS 131.585 is amended to read as follows:

There is hereby created within the ***Department of*** Revenue[~~Cabinet~~] a state debt offset account, which will be subject to the provisions of the restricted fund group, as provided in KRS 48.010(13)(f), and all funds collected under KRS 131.565(6) shall be credited thereto with only the expenses of the ***Department of*** Revenue[~~Cabinet~~] related to development, implementation and administration of KRS 131.560 to 131.595 to be paid therefrom. This account shall not lapse.

Section 150. KRS 131.600 is amended to read as follows:

As used in this section and KRS 131.602:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(3) "Allocable share" means allocable share as that term is defined in the master settlement agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

The term "cigarette" includes "roll-your-own", i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," nine-hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

(5) "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with KRS 131.602(2).

(7) "Released claims" means released claims as that term is defined in the master settlement agreement.

(8) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

(9) "Tobacco product manufacturer" means an entity that after June 30, 2000, directly and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection.

(10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by Kentucky on packs or "roll-your-own" tobacco containers bearing the excise tax stamp of Kentucky. The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section 151. KRS 131.590 is amended to read as follows:

To defray the cost of development and implementation of KRS 131.560 to 131.595, there shall be credited to the state debt offset account an amount not to exceed $175,000, such amount to be derived from the amount of the Kentucky individual income tax refunds withheld under the provisions of KRS 131.560 to 131.595 for undisputed delinquent taxes due the ***Department of*** Revenue[~~ Cabinet~~].

Section 152. KRS 131.600 is amended to read as follows:

As used in this section and KRS 131.602:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(3) "Allocable share" means allocable share as that term is defined in the master settlement agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

The term "cigarette" includes "roll-your-own", i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," nine-hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

(5) "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with KRS 131.602(2).

(7) "Released claims" means released claims as that term is defined in the master settlement agreement.

(8) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

(9) "Tobacco product manufacturer" means an entity that after June 30, 2000, directly and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection.

(10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by Kentucky on packs or "roll-your-own" tobacco containers bearing the excise tax stamp of Kentucky. The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section 153. KRS 131.604 is amended to read as follows:

As used in KRS 131.604 to 131.630:

(1) "Brand family" means all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to menthol, lights, kings, and 100's, and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) "Distributor" means a person, wherever residing or located, who purchases nontax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes. This includes resident wholesalers, nonresident wholesalers, and unclassified acquirers as defined in KRS 138.130.

(3) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(4) "Participating manufacturer" has the meaning given the term in Section II(jj) of the master settlement agreement and all amendments thereto.

(5) "Stamping agent" means a person, including a distributor, that is authorized to affix tax stamps to packages or other containers or cigarettes pursuant to KRS 138.146 or any person that is required to pay the excise tax imposed pursuant to KRS 138. 155.

(6) "Master settlement agreement" has the same meaning as in KRS 131.600.

(7) "Cigarette" has the same meaning as in KRS 131.600.

(8) "***Commissioner***[~~Secretary~~]" means the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~].

(9) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(10) "Tobacco product manufacturer" has the same meaning as in KRS 131.600.

(11) "Units sold" has the same meaning as in KRS 131.600.

(12) "Qualified escrow fund" has the same meaning as in KRS 131.600.

Section 154. KRS 131.610 is amended to read as follows:

(1) The Attorney General shall develop and make available to the ***department***[~~cabinet~~] for public inspection, to include publishing on the ***department's***[~~cabinet's~~] ***Web site***[~~ website~~], a listing of all tobacco product manufacturers that have provided current and accurate certifications pursuant to KRS 131.608 and all brand families that are listed in the certifications. The listing shall be referred to as the "directory" and completed no later than July 1 of each certification year.

(2) The ***department***[~~cabinet~~] shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the Attorney General determines is not in compliance with KRS 131.608, unless the Attorney General has determined that such violation has been satisfactorily cured.

(3) Neither a tobacco product manufacturer nor a brand family shall be included or retained in the directory if the Attorney General determines, in the case of a nonparticipating manufacturer, that:

(a) Any escrow payment required pursuant to KRS 131.602 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General; or

(b) Any outstanding final judgment, including interest thereon, for a violation of KRS 131.602 has not been fully satisfied for the brand family or the manufacturer.

(4) Upon receipt of information from the Attorney General, the ***department***[~~cabinet~~] shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this section and KRS 131.608 and 131.620. The ***department***[~~cabinet~~] shall transmit, by electronic mail or other practicable means, notice to each stamping agent and distributor of any addition to or removal from the directory of any tobacco product manufacturer or brand family.

(5) Every stamping agent and distributor shall provide and update as necessary an electronic mail address to the ***department***[~~cabinet~~] for the purpose of receiving any notifications that may be required by this section and KRS 131.608, 131.616, 131.620, and 131.624.

(6) Notwithstanding the provisions of subsections (2) and (3) of this section, in the case of any nonparticipating manufacturer who has established a qualified escrow account pursuant to KRS 131.602 that has been approved by the Attorney General, the Attorney General may not remove the manufacturer or its brand families from the directory unless the manufacturer has been given at least thirty (30) days' notice of the intended action. For the purposes of this section, notice shall be deemed sufficient if it is sent either electronically to an electronic-mail address or by first class to a postal mailing address provided by the manufacturer in its most recent certification filed pursuant to KRS 131.608. The notified nonparticipating manufacturer shall have thirty (30) days from receipt of the notice to comply. At the time that the Attorney General sends notice of his or her intent to remove the manufacturer from the directory, the Attorney General shall post the notice in the directory.

Section 155. KRS 131.616 is amended to read as follows:

On or before the twentieth day of each month, each stamping agent and distributor shall submit documentation that the ***commissioner***[~~secretary~~] requires to facilitate compliance with this section, including but not limited to a list by brand family of the total number of cigarettes for which the stamping agent or distributor affixed stamps during the previous calendar month or otherwise paid the tax due for the cigarettes. The stamping agent or distributor shall maintain, and make available to the ***commissioner***[~~secretary~~], all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the ***commissioner***[~~secretary~~] for a period of five (5) years.

Section 156. KRS 131.618 is amended to read as follows:

(1) Notwithstanding KRS 131.190, the ***commissioner***[~~secretary~~] is authorized to disclose to the Attorney General the name and address of a stamping agent or distributor and the number of sticks by brand name that have been purchased from a nonparticipating manufacturer and have been stamped with Kentucky stamps by that agent or distributor. The Attorney General may share this information with other federal, state, or local agencies only for the purposes of enforcement of KRS 131.602 and 131.604 to 131.630 or corresponding laws of other states. The Attorney General is further authorized to disclose to a nonparticipating tobacco product manufacturer this information that has been provided by a stamping agent regarding the purchases from that manufacturer. This information provided by a stamping agent may be used in any enforcement action against the nonparticipating manufacturer by the Attorney General.

(2) In addition to the information required to be submitted pursuant to KRS 131.608, 131.614, and 131.620, the Attorney General or the ***commissioner***[~~secretary~~] may require a stamping agent, distributor, or tobacco product manufacturer to submit any additional information including but not limited to samples of the packaging or labeling of each brand family as is necessary to enable the Attorney General to determine whether a tobacco product manufacturer is in compliance with KRS 131.604 to 131.630.

Section 157. KRS 131.622 is amended to read as follows:

(1) Any cigarettes that have been affixed with a stamp in this state in violation of KRS 131.612 shall be deemed contraband and subject to seizure and forfeiture pursuant to KRS 138.165. Cigarettes seized in accordance with this section shall be destroyed and not resold.

(2) The Attorney General may seek an injunction to restrain a violation of KRS 131.612 or 131.616 by a distributor or stamping agent and to compel the distributor or stamping agent to comply with KRS 131.612 and 131.616. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees from any distributor or stamping agent found to be in violation of KRS 131.612 or 131.616.

(3) No stamping agent or distributor shall sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the stamping agent knows are intended for distribution or sale in the state in violation of KRS 131.612. A violation of this section is a Class A misdemeanor.

(4) Nothing in this section shall prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state.

(5) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated KRS 131.612 or any regulation adopted pursuant to KRS 131.604 to 131.630, the ***commissioner***[~~secretary~~] may suspend the sale of cigarette stamps to the stamping agent or distributor for failure to comply with the provisions of KRS 131.604 to 131.630.

Section 158. KRS 131.624 is amended to read as follows:

(1) Any person aggrieved by a determination of the Attorney General to not include or to remove from the directory created in KRS 131.610 a brand family or tobacco product manufacturer may appeal the determination to the Franklin Circuit Court, or to the Circuit Court of the county in which the aggrieved party resides or conducts his place of business. For the purposes of a temporary injunction sought pursuant to this subsection, loss of the ability to sell tobacco products as a result of removal from the directory may be deemed to constitute irreparable harm.

(2) No person shall be issued a license or granted a renewal of a license to act as a distributor or stamping agent unless the person is in compliance with the provisions of KRS 131.604 to 131.630.

(3) The Attorney General or the ***department***[~~cabinet~~] may promulgate administrative regulations necessary to effect the purposes of KRS 131.604 to 131.630.

Section 159. KRS 131.630 is amended to read as follows:

(1) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated any provision of KRS 131.604 to 131.630 or any administrative regulation promulgated thereunder, the ***commissioner***[~~secretary~~] may revoke or suspend the license of any stamping agent or distributor pursuant to KRS 138.195 and 138.205.

(2) Each stamp affixed in violation of KRS 131.612 shall constitute a separate violation. The ***commissioner***[~~secretary~~] may impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes sold or five thousand dollars ($5,000) upon a determination of a violation of KRS 131.612 or any administrative regulations promulgated thereunder. The penalty shall be imposed in the manner provided by KRS 138.195 and 138.205.

Section 160. KRS 131.650 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary, the ***department***[~~cabinet~~] may publish a list or lists of taxpayers that owe delinquent taxes or fees administered by the ***Department of*** Revenue[~~ Cabinet~~], and that meet the requirements of KRS 131.652.

(2) For purposes of this section, a taxpayer may be included on a list if:

  (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the dates they became due and payable; and

  (b) A tax lien or judgment lien has been filed of public record against the taxpayer before notice is given under KRS 131.654.

(3) In the case of listed taxpayers that are business entities, the ***Department of*** Revenue[~~ Cabinet~~] may also list the names of responsible persons assessed pursuant to KRS 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected from publication by subsection (2) of this section, and for whom the requirements of KRS 131.652 are satisfied with regard to the personal assessment.

(4) Before any list is published under this section, the ***department***[~~cabinet~~] shall document that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

Section 161. KRS 131.652 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] may publish a list of all of the taxpayers described in KRS 131.650.

(2) For the purposes of this section, a tax or fee is not delinquent if:

  (a) The procedures enumerated in KRS 131.110 have not been waived or exhausted at the time when notice would be given under KRS 131.654; or

(b) The liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(3) Unpaid liabilities are not subject to publication if:

(a) The ***department***[~~cabinet~~] is in the process of reviewing or adjusting the liability;

(b) The taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(c) The ***department***[~~cabinet~~] has been notified that the taxpayer is deceased; or

(d) The time period for enforced collection of the taxes or fees has expired.

Section 162. KRS 131.652 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] may publish a list of all of the taxpayers described in KRS 131.650.

(2) For the purposes of this section, a tax or fee is not delinquent if:

(a) The procedures enumerated in KRS 131.110 have not been waived or exhausted at the time when notice would be given under KRS 131.654; or

(b) The liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(3) Unpaid liabilities are not subject to publication if:

(a) The ***department***[~~cabinet~~] is in the process of reviewing or adjusting the liability;

(b) The taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(c) The ***department***[~~cabinet~~] has been notified that the taxpayer is deceased; or

(d) The time period for enforced collection of the taxes or fees has expired.

Section 163. KRS 131.658 is amended to read as follows:

The ***department***[~~cabinet~~] shall remove the name of a taxpayer from the list of delinquent taxpayers after the ***department***[~~cabinet~~] receives written notice of and verifies any of the following facts about the liability in question:

(1) The taxpayer has contacted the ***department***[~~cabinet~~] and arranged resolution of the liability;

(2) An active bankruptcy proceeding has been initiated for the liability; or

(3) A bankruptcy proceeding concerning the liability has resulted in discharge of the liability.

Section 164. KRS 131.660 is amended to read as follows:

If the ***department***[~~cabinet~~] publishes a name under KRS 131.650 in error, the taxpayer whose name was erroneously published has all the rights enumerated in KRS 131.081 for an aggrieved taxpayer.

Section 165. KRS 131.990 is amended to read as follows:

(1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(2) (a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(d) Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years, or both.

(e) Any present ***secretary or employee of the Finance and Administration Cabinet, commissioner***[~~secretary~~] or employee of the ***Department of*** Revenue[~~ Cabinet~~], member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.

(3) Any person who willfully fails to comply with the rules and regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~] for the administration of delinquent tax collections shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(4) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the ***department***[~~cabinet~~] that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.

Section 166. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

  (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

  (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

  (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

  (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

  (c) The value of improvements to existing nonresidential property;

  (d) The value of new residential improvements to property;

  (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

  (f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

  (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

  (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

  (i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means:

  (a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;

  (b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or

  (c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government.

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous

acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

Section 167. KRS 132.015 is amended to read as follows:

The property valuation administrator shall maintain lists of all real property additions and real property deletions to the property tax rolls for the county, consolidated local government, or urban-county, and each city, school district, and special district in the county, consolidated local government, or urban-county, and shall certify such lists to the ***Department of*** Revenue[~~ Cabinet~~], the city clerk of each city in the county which elects to use the annual county assessment as provided for in KRS 132.285, the treasurer or chief officer of each special district in the county, and the chief administrative officer of the urban-county and the consolidated local government at the time he files his recapitulation of property assessed on the tax roll with the ***Department of*** Revenue[~~ Cabinet~~].

Section 168. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of

KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board, fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from any affiliated company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding the assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the ***department***[~~cabinet~~] shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the ***department***[~~cabinet~~] shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the ***department***[~~cabinet~~], or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined

to be acceptable by the ***department***[~~cabinet~~], make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the ***department***[~~cabinet~~] as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding the revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the ***department***[~~cabinet~~] after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 169. KRS 132.030 is amended to read as follows:

(1) Every person having a deposit in any financial institution, as defined in KRS 136.500, on January 1 of any year shall pay an annual tax to the state equal to one-thousandth of one percent (0.001%) upon the amount of the deposit, and no deduction shall be made for any indebtedness. The deposit tax shall be paid to the ***department***[~~cabinet~~] by the financial institution with which the deposit is made, as the agent of the depositor, on or before March 1 following the date of the report provided for in KRS 132.040.

(2) No other tax shall be assessed by the state or any county, city, or other taxing district on the deposits or against the depositor on account of the deposits, except as provided in KRS 136.575.

Section 170. KRS 132.040 is amended to read as follows:

Each financial institution, as defined in KRS 136.500, shall file with the ***department***[~~cabinet~~] on or before March 1 of each year, a report setting forth the total amount of its deposits as of the preceding January 1 that are taxable in the name of the depositor under the laws of this state, and shall, on or before March 1 of each year, pay to the ***department***[~~cabinet~~] one-thousandth of one percent (.001%) of the amount of the deposits, and may charge to and deduct from the deposit of each depositor the amount of the tax paid on his behalf. Financial institutions shall have liens on the funds belonging to the respective depositors on which the tax has been paid. Any claim for taxes against the depositor by the financial institution paying the taxes shall be asserted within six (6) months after the payment of the taxes to the ***department***[~~cabinet~~], and no claims or liens shall be asserted after that time.

Section 171. KRS 132.047 is amended to read as follows:

(1) Every person having on September 1 of any year a savings account, in Kentucky in any credit union organized under the laws of this state or doing business in this state shall pay an annual tax to the state equal to one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of the savings account, and no deduction therefrom shall be made for any indebtedness. The tax shall be paid to the ***Department of*** Revenue[~~ Cabinet~~] by the credit union with which the savings account is made, as agent of the member on or before November 1 of each year. The credit union may charge to and deduct from the savings account of each member the amount of tax so paid on his behalf. A lien is hereby given to the credit union on the funds belonging to the respective member on which the tax has been so paid. Any claim for taxes against the member by the credit union paying the taxes shall be asserted within six (6) months after payment of the taxes to the ***department***[~~cabinet~~], and all claims or liens therefor shall be thereafter barred.

(2) Each credit union shall file with the ***Department of*** Revenue[~~ Cabinet~~] on or before September 21 each year a report setting forth the total amount of the savings account of members as of the preceding September 1 that would be taxable in the name of the member under the laws of this state.

(3) Any credit union that fails to make the returns or pay the taxes on behalf of its members within the time limits prescribed by KRS 132.043 and 132.047 shall be subject to the penalties and interest provided in KRS 131.180.

(4) No other tax shall be assessed by the state or any county, city, or other taxing district on such savings account or against the members on account of such savings account.

Section 172. KRS 132.060 is amended to read as follows:

(1) Every broker maintaining an office or place of business in this state for the conduct of the business of buying or selling bonds or other securities, excluding stocks and mutual funds, for customers in margin transactions shall report to the ***Department of*** Revenue~~[Cabinet]~~ as of January 1 of each year, the aggregate amount, with an accurate description and the market value, of all such securities then held or carried by such broker for each office or place of business in the state for resident customers, which report shall be filed with the ***department***~~[cabinet]~~ on or before March 1 of each year.

(2) If the broker has doubt as to whether or not a customer is a resident of this state, he may, on or before making the required report, call upon the customer to submit an affidavit upon a form to be prescribed by the ***department***~~[cabinet]~~, stating the facts relied upon to establish his nonresidence. The broker may then report to the ***department***~~[cabinet]~~ the name and post office address of such customer and the information as to securities held or carried for him, and file therewith the customer's affidavit. The broker shall then be relieved from making any further report and from collecting or paying any taxes for the customer.

(3) If the customer fails or refuses to furnish the affidavit required by the broker, the broker shall report and pay the tax for the customer, who shall then have no claim against the broker because of the payment of the tax charged to the customer's account.

Section 173. KRS 132.070 is amended to read as follows:

Upon the filing of the report required by KRS 132.060, the ***department***~~[cabinet]~~ shall assess the securities therein reported for taxation at their fair cash value, insofar as subject to taxation in this state, and shall fix the amount of tax due thereon at the rate prescribed by KRS 132.020, and render to the broker a tax bill covering the full amount of taxes due to the state under the securities so reported.

Section 174. KRS 132.080 is amended to read as follows:

The taxes fixed under KRS 132.070 shall be paid to the ***Department of*** Revenue~~[Cabinet]~~ by the broker within thirty (30) days after the rendition of the tax bill, subject to the same rate of discount provided in KRS 134.020. The broker may charge to and collect from each customer his portion of the tax levied upon the securities held or carried for him. If the broker fails to pay the taxes when due, he shall be liable for interest thereon at the tax interest rate as defined in KRS 131.010(6), and an additional penalty of ten percent (10%) upon the amount of the taxes with interest.

Section 175. KRS 132.130 is amended to read as follows:

(1) Effective January 1, 1967, every owner, proprietor, or custodian of a bonded warehouse or of premises under the control and supervision of the United States Internal Revenue Service, in which distilled spirits are stored shall between January 1 and February 1 of each year file with the ***Department of*** Revenue~~[Cabinet]~~ a report sworn to by him showing the quantity and kind of distilled spirits in the bonded warehouse or premises as of January 1 of that year; the quantity and kind of spirits on which the federal tax has been paid or is due; what distilled spirits have been removed from the bonded warehouse or premises for transfer in bond out of this state during the preceding twelve (12) months; the county, city, and taxing district in which such distilled spirits were certified for taxation; the fair cash value of the distilled spirits estimated at a price it would bring at a fair voluntary sale; and such other facts pertaining to the distilled spirits as the ***department***~~[cabinet]~~ may require.

(2) On January 1, May 1, and September 1, after the federal tax has been paid or becomes due, or after any of the distilled spirits are removed from the bonded warehouse or premises for transfer in bond out of this state, every owner, proprietor, or custodian of a bonded warehouse or premises in which distilled spirits are stored upon which taxes have accrued on assessments prior to January 1, 1967, shall file with the ***Department of*** Revenue~~[Cabinet]~~ and the county clerk, in which county the distilled spirits were at the time of the assessment, a statement, sworn to by him, showing the quantity of the distilled spirits on which the federal tax has been paid or is due; what distilled spirits have been removed from the bonded warehouse or premises or transferred in bond out of this state during the preceding four (4) months; the years in which such distilled spirits were assessed for taxation; and the county, city, or taxing district in which the distilled spirits were stored at the time of the assessment. At the same time, all taxes and interest on such distilled spirits due the state, county, or other taxing district shall be paid to the officers entitled to receive them. The report required by this section shall be made whether or not any distilled spirits are stored in the bonded warehouse or premises at the time the report is due.

Section 176. KRS 132.140 is amended to read as follows:

(1) The ***Department of*** Revenue~~[Cabinet]~~ shall fix the value of the distilled spirits for the purpose of taxation, assess the same at its fair cash value, estimated at the price it would bring at a fair voluntary sale, and keep a record of its valuations and assessments. The ***department***~~[cabinet]~~ shall immediately notify the owner or proprietor of the bonded warehouse or premises of the amount fixed.

(2) If any owner, proprietor, or custodian of a bonded warehouse or premises fails to make the report required by KRS 132.130, the ***department***~~[cabinet]~~ shall ascertain the necessary facts required to be reported. For that purpose the

department[~~cabinet~~] shall have access to the records of the owner, proprietor, or custodian; and the assessment shall be made and taxes collected thereon, with interest and penalties, as though regularly reported.

(3) The assessment made under (1) of this section shall be reviewed according to KRS 131.110.

Section 177. KRS 132.150 is amended to read as follows:

Immediately after the valuation of the distilled spirits has been finally fixed, the ***department***[~~cabinet~~] shall certify to the county clerks of the respective counties the amount liable for county, city, or district taxation, and the date when the bonded period will expire on the spirits. The report shall be filed by the county clerk in his office, and certified by him to the proper collecting officer of the county, city, or taxing district for collection. The spirits, in addition to the tax for state purposes, shall be taxed for county, school, and city purposes at the prevailing rates of taxation on tangible personal property in the respective counties, school districts, and cities in which the spirits are stored, but the combined rate of taxation for city and school purposes in cities of the first class shall not exceed one dollar and twenty-five cents ($1.25) on each one hundred dollars ($100) of assessed value of the spirits.

Section 178. KRS 132.180 is amended to read as follows:

(1) Any person having custody of distilled spirits in a bonded warehouse or premises on the day as of which the assessment is made shall be liable for all taxes due thereon, together with all interest and penalties that may accrue. Any owner, proprietor, or custodian of such distilled spirits who pays the taxes, interest and penalties on the distilled spirits shall have a lien thereon for the amount paid, with legal interest from day of payment.

(2) Taxes on distilled spirits which are subject to the provisions of KRS 132.160(1)(a) shall become due and payable in the manner provided by KRS 134.020 except that taxes due the state shall be paid directly to the ***Department of*** Revenue[~~ Cabinet~~].

Section 179. KRS 132.216 is amended to read as follows:

(1) Every life insurance company organized under the laws of this state, or doing business in this state, shall by February 15 of each year make a true and correct report to the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~], verified by its president, secretary, treasurer, or other proper officer, giving the names and addresses of residents of this state entitled to proceeds of life insurance policies left on deposit with the insurance company and subject to the right of withdrawal as of January 1 previous thereto, with the amount left on deposit in each individual's name, and other information as may be required by the ***Department of*** Revenue[~~ Cabinet~~] by regulation.

(2) Every life insurance company organized under the laws of this state, or doing business in this state, shall by February 15 of each year make a true and correct report to the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~], verified by its president, secretary, treasurer, or other proper officer, giving the name and address of any resident of this state who is the beneficiary of a policy or policies with the insurance company, subject to taxation under KRS 132.215, with the amount paid to the Kentucky resident during the twelve (12) months immediately preceding January 1, the age of the individual receiving these payments as of January 1, and such other information as the ***Department of*** Revenue[~~ Cabinet~~] may require by regulation.

Section 180. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any financial institution, as defined in KRS 136.500, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed, and valued as of January 1 of each year. Money in hand shall be listed, assessed, and valued as of January 1 of each year. Notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in the property, unless otherwise provided by law, shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1 of each year. It shall be the duty of all persons owning or having any interest in any real property taxable in this state to list or have listed the property with the property valuation administrator of the county where it is located between January 1 and March 1 in each year, except as otherwise provided by law. It shall be the duty of all persons owning or having any interest in any intangible personal property or tangible personal property taxable in this state to list or have listed the property with the property valuation administrator of the county of taxable situs or with the ***department***[~~cabinet~~] between January 1 and May 15 in each year, except as otherwise prescribed by law. The filing date for an individual's intangible property tax return may be extended to the extended federal income filing date approved by the Internal Revenue Service for that individual. If an individual extends the filing date for the intangible return, no discount shall be allowed upon the payment of the intangible tax. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer may list his property in person before the property valuation administrator or his deputy, or may file a property tax return by first class mail. Any real property correctly and completely described in the assessment record for the previous year, or purchased during the preceding year and for which a value was stated in the deed according to the provisions of KRS 382.135, may be considered by the owner to be listed for the current year if no changes that could potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the ***department***[~~cabinet~~], any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property which has been underassessed as a result of the owner intentionally failing to provide information, or intentionally providing erroneous

information, shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.

(3) If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list. The property valuation administrator, his employee, or employees of the ***department***[~~cabinet~~] may physically inspect and revalue land and buildings in the absence of the property owner or resident. The exterior dimensions of buildings may be measured and building photographs may be taken; however, with the exception of buildings under construction or not yet occupied, an interior inspection of residential and farm buildings, and of the nonpublic portions of commercial buildings shall not be conducted in the absence or without the permission of the owner or resident.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of the person without designating them by name.

(5) Real property tax roll entries for which tax bills have not been collected at the expiration of the one (1) year tolling period provided for in KRS 134.470, and for which the property valuation administrator cannot physically locate and identify the real property, shall be deleted from the tax roll and the assessment shall be exonerated. The property valuation administrator shall keep a record of these exonerations, which shall be open under the provisions of KRS 61.870 to 61.884. If, at any time, one of these entries is determined to represent a valid parcel of property it shall be assessed as omitted property under the provisions of KRS 132.290. Notwithstanding other provisions of the Kentucky Revised Statutes to the contrary, any loss of ad valorem tax revenue suffered by a taxing district due to the exoneration of these uncollectable tax bills may be recovered through an adjustment in the tax rate for the following year.

(6) All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of the tax-exempt property, but the property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the ***department***[~~cabinet~~] within thirty (30) days of the close of the listing period. This inventory shall be in the form prescribed by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the listing period.

(7) Each property valuation administrator, under the direction of the ***department***[~~cabinet~~], shall review annually all real property listed with him under subsection (6) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

Section 181. KRS 132.240 is amended to read as follows:

Individuals or corporations listing property for taxation with the property valuation administrator or the county board of supervisors shall reveal the face value of all intangibles listed, except cash or bank deposits, on the form prescribed by the ***Department of*** Revenue[~~ Cabinet~~] for listing intangible property. A reduction of fifty cents ($0.50) shall be made from the property valuation administrator's compensation for each list he accepts upon which there is an omission to reveal the face value of any intangible property listed, except cash or bank deposits.

Section 182. KRS 132.260 is amended to read as follows:

Every person providing rental space for the parking of mobile homes and recreational vehicles shall by February 1 of each year report the name of the owner and type and size of all mobile homes and recreational vehicles not registered in this state under KRS 186.655 on his premises on the prior January 1 to the property valuation administrator of the county in which the property is located. The report shall be made in accordance with forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and shall be signed and verified by the chief officer or person in charge of the business. The property valuation administrator may make a personal inspection and investigation of the premises on which mobile homes and recreational vehicles are located, for the purpose of identifying and assessing such property. No person in charge of such premises shall refuse to permit the inspection and investigation.

Section 183. KRS 132.285 is amended to read as follows:

(1) Except as provided in subsection (3) of this section, any city may by ordinance elect to use the annual county assessment for property situated within such city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city. Any city making such election shall notify the ***Department of*** Revenue[~~ Cabinet~~] and property valuation administrator prior to the next succeeding assessment to be used for city levies. In such event the assessment finally determined for county tax purposes shall serve as a basis of all city levies for the fiscal year commencing on or after the county assessment date. Each city which elects to use the county assessment shall annually appropriate and pay each fiscal year to the office of the property valuation administrator for deputy and other authorized personnel allowance, supplies, maps and equipment, and other authorized expenses of the office one-half of one cent ($0.005) for each one hundred dollars ($100) of assessment; provided, that sums paid shall not be less than two hundred fifty dollars ($250), nor more than forty thousand dollars ($40,000) in a city having an assessment subject to city tax of less than two billion dollars ($2,000,000,000) or fifty thousand dollars ($50,000) in a city having an assessment subject to city tax of more than two

billion dollars ($2,000,000,000). This allowance shall be based on the assessment as of the previous January 1. Each property valuation administrator shall file a claim with the city and the city shall order payment in an amount not to exceed the appropriation authorized by this section. The property valuation administrator shall be required to account for all moneys paid to his office by the city and any funds unexpended by the close of each fiscal year shall carry over to the next fiscal year. Notwithstanding any statutory provisions to the contrary, the assessment dates for such city shall conform to the corresponding dates for the county, and such city may by ordinance establish additional financial and tax procedures that will enable it effectively to adopt the county assessment. The legislative body of any city adopting the county assessment may fix the time for levying the city tax rate, fiscal year, due and delinquency dates for taxes and any other dates that will enable it effectively to adopt the county assessment, notwithstanding any statutory provisions to the contrary. Any such city may, by ordinance, abolish any office connected with city assessment and equalization; except that in the case of a city assessor who is elected by the qualified voters of the city, the office may not be abolished before the end of the term of such assessor. Any city which elects to use the county assessment shall have access to the assessment records as soon as completed and may obtain a copy of that portion of the records which represents the assessment of property within such city by additional payment of the cost thereof. Once any city elects to use the county assessment, such action cannot be revoked without notice to the ***Department of*** Revenue[~~ Cabinet~~] and the property valuation administrator six (6) months prior to the next date as of which property is assessed for state and county taxes.

(2) In the event any omitted property is assessed by the property valuation administrator as provided by KRS 132.310 such assessment shall be considered as part of the assessment adopted by the city according to subsection (1) of this section.

(3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities shall use the assessment required to be made pursuant to KRS 132.487(5).

(4) Notwithstanding the provisions of subsection (1) of this section, each city which elects to use the county assessment for ad valorem taxes levied for 1996 or subsequent years, and which used the county assessment for ad valorem taxes levied for 1995, shall appropriate and pay to the office of the property valuation administrator for the purposes set out in subsection (1) of this section an amount equal to the amount paid to the office of the property valuation administrator in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.

Section 184. KRS 132.310 is amended to read as follows:

(1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the ***Department of*** Revenue[~~ Cabinet~~], may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The ***Department of*** Revenue[~~ Cabinet~~] shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.

(2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). If the property valuation administrator fails to assess any omitted real property, the ***Department of*** Revenue[~~ Cabinet~~] may initiate assessment and collection procedures under the same provisions it uses for omitted personal property.

(3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one (1) member of the board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky Board of Tax Appeals as provided by KRS 131.340(2).

(4) Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290(3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4).

Section 185. KRS 132.320 is amended to read as follows:

(1) Any person who has failed to list for taxation his intangible personal property or tangible personal property, in whole or in part, because he was not called upon by the property valuation administrator or for any other reason, may at any time list the property with the ***department***[~~cabinet~~] by reporting to the ***department***[~~cabinet~~] the full details and a correct description of the omitted property and its value. The ***department***[~~cabinet~~] may determine and fix the fair cash value, estimated at the price it would bring at a fair voluntary sale, of the property so reported and listed for taxation.

(2) Any person dissatisfied with or aggrieved by the finding or ruling of the ***department***[~~cabinet~~] may appeal the finding or ruling in the manner provided in KRS 131.110.

(3) The ***department***[~~cabinet~~] may promulgate administrative regulations, and develop forms for the listing and assessment of the property assessed or to be assessed for taxation. The tax assessed shall be paid to and collected by the ***department***[~~cabinet~~]. Taxes collected by the ***department***[~~cabinet~~] on behalf of the county, school, and other local taxing districts shall be distributed to each district at least quarterly. From each distribution, the ***department***[~~cabinet~~] shall deduct a fee which represents an allocation of ***department***[~~cabinet~~] operating and overhead expenses incurred in assessing and

collecting the omitted tax. The fee shall be determined by the ***department***[~~cabinet~~] and shall apply to all omitted taxes collected after December 31, 1997.

(4) All property assessed pursuant to this section shall be liable for the payment of the taxes, interest, and penalties provided by law for failure to list the property with the property valuation administrator or other assessment board, commission, or authority within the time and in the manner prescribed by law, except that if the taxpayer voluntarily lists property under this section the twenty percent (20%) penalty provided to be paid to the ***department***[~~cabinet~~] shall not apply, unless the taxpayer on an appeal from the action of the ***department***[~~cabinet~~] attempts to reduce the assessment and is unsuccessful.

(5) If after demand by the ***department***[~~cabinet~~], any taxpayer refuses to voluntarily list any intangible or tangible personal property omitted from assessment, the ***department***[~~cabinet~~] shall make an estimate of the fair cash value of the omitted intangible or tangible personal property from the information in its possession and assess the property for taxation and require payment of the taxes, penalties, and interest due to the state and local taxing districts from the person assessed. Notice of the assessment shall be mailed to the taxpayer or the taxpayer's agent. The finality and review of any assessment made pursuant to this section shall be governed by the provisions of KRS 131.110.

Section 186. KRS 132.330 is amended to read as follows:

The field agents, accountants and attorneys of the ***Department of*** Revenue[~~ Cabinet~~] shall cause to be listed for taxation all property omitted by the property valuation administrators, county board of assessment appeals, ***department***[~~cabinet~~] or any other assessing authority, for any year omitted. The agent, accountant or attorney proposing to have the property assessed shall file in the office of the county clerk of the county in which the property may be liable to assessment a statement containing a description and value of the property or corporate franchise proposed to be assessed, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, if known, and the year the property was unassessed. The county clerk shall thereupon issue a summons against the owner, or person in possession of the property if the owner is unknown, to show cause within ten (10) days after the service of the summons, why the property or corporate franchise shall not be assessed at the value named in the statement filed. No decision shall be rendered against the alleged owner unless the statement filed contains a description of the property sought to be assessed that will enable the county judge/executive to identify it. The summons shall be executed by the sheriff by delivering a copy thereof to the owner, or if he is not in the county to his agent, attorney or person in possession of the property. If the property is real property, and the owner is known but is absent from the state and has no attorney or agent in this state and no one is in possession of the property, the summons shall be served by posting it in a conspicuous place upon the property; if the property consists of tangible personal property the summons shall be placed in a conspicuous place where the property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown and no one (1) has possession of the property, an action for assessment shall be instituted by filing the petition above mentioned and procuring constructive service against the owner under the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of the above cases an attachment of the property omitted from assessment may be procured from the District Court against the owner, at the time of the institution of the action or thereafter, and without the execution of a bond by the Commonwealth or its relator, by the representative of the ***Department of*** Revenue[~~ Cabinet~~] making an affidavit that the property described in the petition is subject to state, county, school or other taxing district tax, and is unassessed for any taxable year.

Section 187. KRS 132.340 is amended to read as follows:

(1) Within ten (10) days after the summons has been served, or within thirty (30) days after the warning order against the defendant whose name and place of residence are unknown has been made, if it appears to the county judge/executive that the property is liable for taxation and has not been assessed, the county judge/executive shall enter an order fixing the value at the fair cash value estimated as required by law. The county judge/executive shall certify the assessment of the property and its value, together with such other facts as may be required by law or directed by the county judge/executive to appear in the order, to the ***Department of*** Revenue[~~ Cabinet~~] and to the sheriff of the county, together with the amount of penalty and cost of assessment, in order that the taxes due the state, county, school or any other taxing district may be collected, with the penalty and costs. If the property is not liable for taxes, the county judge/executive shall make an order to that effect. Either party may appeal from the decision of the county judge/executive to the Circuit Court, and then to the Court of Appeals as in other civil cases, except that no appeal bond shall be required where the appeal is by the ***commissioner***[~~secretary~~] of revenue acting as the relator.

(2) If the owner of the property fails to pay the tax assessed, interest, penalties and costs, the lien under the attachment may be enforced and a sufficiency of the property sold to pay the obligation to the state, county, school or other taxing district. All persons owning property that is assessed as herein provided shall, in addition to the taxes and interest from the time the taxes should have been paid, pay the costs of the proceedings and a penalty of twenty percent (20%) on the amount of the taxes due, except where the property was duly listed and the taxes paid thereon within the time prescribed by law, and except where some different penalty is expressly provided by law.

(3) The taxes, costs and penalties shall be collected and accounted for as other taxes and penalties are required to be collected, and by the same officers. The county clerk shall enter all such assessments in a book to be kept for that purpose, showing the date of the assessment, the name of the person against whom the assessment is made, the location and description of the property assessed, and the value thereof. The officer collecting the taxes shall, when they are paid, notify the clerk of the payment, and the payment shall be noted by the clerk opposite the entry of the assessment.

Section 188. KRS 132.350 is amended to read as follows:

The county clerk shall, upon the filing of a statement by an agent, accountant or attorney of the ***Department of*** Revenue[~~ Cabinet~~] for the assessment of omitted property, enter the name of the person signing the statement as attorney for the ***department***[~~cabinet~~], and enter the name of the county attorney as attorney for the state, county, school and other taxing districts for which the ***commissioner***[~~secretary~~] of revenue is authorized to act as relator in such proceeding. The county attorney shall appear and prosecute or assist in the prosecuting of the proceeding in all the courts to which it may be taken for trial. If there is a judgment assessing the property for taxation, the judgment in each case shall recite whether or not the county attorney was present and assisted in the trial of the proceeding. When he is present and assists in the proceeding he shall be allowed as compensation for his services ten percent (10%) of the amount of state and county taxes assessed and collected pursuant to the judgment. The state and county shall be liable respectively for the payment only of the percentage allowance of compensation to the county attorney on the amount that each collects, and this shall be paid to the county attorney within thirty (30) days after the collection of the taxes, and charged against the fund to which the tax was credited.

Section 189. KRS 132.360 is amended to read as follows:

(1) Any assessment of accounts receivable, notes, or bonds or other intangible or tangible personal property that were listed with the property valuation administrator or with the ***Department of*** Revenue[~~ Cabinet~~] as provided by KRS 132.220 may be reopened by the ***Department of*** Revenue[~~ Cabinet~~] within five (5) years after the due date of the return, unless the assessed value thereof is the face value in the case of accounts receivable and notes or the quoted value in the case of bonds, or has been established by a court of competent jurisdiction. If upon reopening the assessment the ***department***[~~cabinet~~] finds that the assessment was less than the fair cash value and should be increased, it shall give notice thereof to the taxpayer, who may within forty-five (45) days thereafter protest to the ***department***[~~cabinet~~] and offer evidence to show that no increase should be made. After the ***department***[~~cabinet~~] has disposed of the protest, the taxpayer may appeal from any such additional assessment as provided by KRS 131.110 and 131.340.

(2) Upon such assessment becoming final the ***department***[~~cabinet~~] shall certify the amount due to the taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

Section 190. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor. Property valuation administrators shall be state officials and all deputies and assistants of their offices shall be unclassified state employees.

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by Section 100 of the Constitution and by KRS 132.380 and shall be eligible for reelection.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full-time employees shall be eligible for participation in the provisions of KRS 18A.205, 18A.230 to 18A.355, and 61.510 to 61.705.

(4) A property valuation administrator may be removed from office by the Circuit Court of his county, upon petition of any taxpayer, or by the ***commissioner***[~~secretary~~] of revenue for any of the following grounds: willful disobedience of any just or legal order of the ***department***[~~cabinet~~], or for misfeasance or malfeasance in office or willful neglect in the discharge of his official duties, including but not limited to intentional underassessment or overassessment of properties and chronic underassessment of properties. For purposes of this section and KRS 134.385, "chronic underassessment" shall mean a widespread pattern and practice of assessing properties at levels substantially below fair market value which persists for a period of two (2) or more years as disclosed by randomly selected sample appraisals conducted under the provisions of KRS 133.250, special audits conducted pursuant to KRS 134.385, or other means.

(5) If the ***commissioner***[~~secretary~~] determines that a property valuation administrator should be removed from office, the property valuation administrator shall be notified in writing, and the notice of intent to remove shall state the specific reasons for removal. The notice shall also advise the property valuation administrator of his right to a preremoval conference and an administrative hearing.

(6) A property valuation administrator may request a preremoval conference to appear with or without counsel before the ***commissioner***[~~secretary~~] or his designee to answer the charges against him. The preremoval conference shall be requested in writing within six (6) working days of the date on which the notice of intent to remove is received, and a preremoval conference shall be scheduled within seven (7) working days of the date on which the request is received. The ***commissioner***[~~secretary~~] or his designee shall render a decision within five (5) working days of the conclusion of the preremoval conference. Failure of a property valuation administrator to request a preremoval hearing shall not waive his right to contest his removal through an administrative hearing.

(7) If an action to remove a property valuation administrator is initiated by the ***commissioner***[~~secretary~~] of revenue, the property valuation administrator shall have the right to appeal and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. Appeal of the final order of the ***commissioner***[~~secretary~~] of revenue may be filed in a Circuit Court of an adjacent judicial circuit in accordance with KRS Chapter 13B, notwithstanding the

provisions of KRS Chapter 18A.

(8) If a property valuation administrator is removed from office as provided in subsections (4) to (7) of this section, he shall be ineligible to serve in the office at any future date and shall forfeit any and all certification from the ***Department of*** Revenue~~[Cabinet]~~ pertaining to the office.

(9) Notwithstanding the provisions of KRS 18A.110(5)(c), the ***department***~~[cabinet]~~ shall promulgate administrative regulations allowing property valuation administrators and their deputies to receive lump-sum payments for accrued annual leave and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

Section 191. KRS 132.375 is amended to read as follows:

Whenever a vacancy occurs in the property valuation administrator's office, the ***commissioner***~~[secretary]~~ of revenue shall designate a qualified ***department***~~[cabinet]~~ employee to carry on the duties of the office until the vacancy is filled by appointment or by election. The ***department***~~[cabinet]~~ employee so designated shall be compensated from ***Department of*** Revenue~~[Cabinet]~~ funds in the same manner and at the same rate as compensated prior to his receiving the designation, plus necessary expenses, including travel. The individual shall have all the powers and be subject to all the administrative regulations applying to property valuation administrators.

Section 192. KRS 132.380 is amended to read as follows:

(1) Before any person's name shall appear before the voters on election day as a candidate for the office of property valuation administrator in any primary or general election, except as a candidate to succeed himself in office, or before he may be appointed property valuation administrator, except as an interim appointee as provided by KRS 132.375, he shall hold a certificate issued by the ***Department of*** Revenue~~[Cabinet]~~, showing that he has been examined by it and that he is qualified for the office. All certificates issued shall expire one (1) year from the date of issuance, except for the certificates issued to successful candidates of the 1997 exam. Those certificates shall remain valid until after the November, 1998 election. The examinations shall be written and formulated so as to test fairly the ability and fitness of the applicant to serve as property valuation administrator. The ***Department of*** Revenue~~[Cabinet]~~ shall hold the examinations in at least one (1) place in each Supreme Court district during the month of November of each year immediately preceding each year in which property valuation administrators are to be elected. The ***Department of*** Revenue~~[Cabinet]~~ shall advise each county attorney of the time and place of the examination, and the county attorney shall post a notice thereof in a conspicuous place in the courthouse two (2) weeks before the examination is given. Any person desiring to take an examination shall appear at the time and place designated.

(2) If, after the giving of the examination, as provided in subsection (1), there is only one (1) person qualified to be a candidate in the county, the ***Department of*** Revenue~~[Cabinet]~~ shall hold a second examination prior to the filing date in each Supreme Court district where necessary. Applicants from only those counties having not more than one (1) person qualified shall be eligible to take the examination. Notice of the second examination shall be posted in the manner provided in subsection (1).

(3) Whenever there is a vacancy in the office of property valuation administrator to be filled by appointment or by election, and there is not more than one (1) person holding a valid certificate and eligible for appointment or election, the ***Department of*** Revenue~~[Cabinet]~~ may hold a special examination for applicants seeking a certificate for the office. If, after the giving of a special examination, only one (1) person is qualified, the county judge/executive may request a second examination. Special examinations shall be held in the same manner as regular examinations.

(4) Examinations shall be given and graded in accordance with rules of the ***department***~~[cabinet]~~ published at the time of the examination. Within ten (10) days after the examination, a certificate of fitness and qualification to fill the office of property valuation administrator shall be issued by the ***Department of*** Revenue~~[Cabinet]~~ to each person passing the examination.

(5) Examination records shall be preserved by the ***department***~~[cabinet]~~ for twelve (12) months after the examination, and the record of any person who took the examination may be seen by him at the office of the ***Department of*** Revenue~~[Cabinet]~~ in Frankfort, Kentucky.

Section 193. KRS 132.385 is amended to read as follows:

(1) The ***department***~~[cabinet]~~ shall develop and administer a program for the purpose of providing education and training in the technical, legal, and administrative aspects of property tax administration for property valuation administrators, deputy property valuation administrators, and ***department***~~[cabinet]~~ employees. Courses may be created and taught by ***department***~~[cabinet]~~ personnel or the ***department***~~[cabinet]~~ may adopt specific courses offered by appropriate professional organizations.

(2) The ***department***~~[cabinet]~~ shall develop and administer, in cooperation with the property valuation administrators, a certification program for property valuation administrators, deputy property valuation administrators, and ***department***~~[cabinet]~~ employees. A professional designation, "certified Kentucky assessor" (CKA), shall be awarded to those individuals successfully meeting the standards established by this program. Minimum requirements shall include one hundred twenty (120) hours of classroom instruction, passage of subject matter examinations, and three (3) years of experience in Kentucky property tax administration. An advanced designation, "senior Kentucky assessor" (SKA), shall be

awarded to those individuals successfully completing an additional ninety (90) hours of classroom instruction, passage of subject matter examinations, and an additional two (2) years of experience in Kentucky property tax administration. Correspondence course credit administered by the ***department***[~~cabinet~~] may be substituted for no more than thirty (30) hours of the one hundred twenty (120) hours required for the "certified Kentucky assessor" (CKA) designation, and for no more than fifteen (15) hours of the additional ninety (90) hours required for the "senior Kentucky assessor" (SKA) designation.

Section 194. KRS 132.400 is amended to read as follows:

Before entering upon the duties of office, the property valuation administrator shall execute a bond conditioned upon the faithful performance of the duties of the office with a surety to be approved by the ***Department of*** Revenue[~~ Cabinet~~]. In counties containing a city of the first class or consolidated local government, the bond shall be in the sum of one hundred thousand dollars ($100,000); in counties containing a city of the second class, fifty thousand dollars ($50,000); in all other counties, twenty thousand dollars ($20,000).

Section 195. KRS 132.420 is amended to read as follows:

The property valuation administrator shall, subject to the direction, instruction, and supervision of the ***Department of*** Revenue[~~ Cabinet~~], make the assessment of all property in his county except as otherwise provided, prepare property assessment records, and have other powers and duties relating to assessment as may be prescribed by law or by the ***department***[~~cabinet~~].

Section 196. KRS 132.450 is amended to read as follows:

(1) Each property valuation administrator shall assess at its fair cash value all property which it is his duty to assess except as provided in paragraph (c) of subsection (2) of this section. In the case of securities which are regularly bought and sold through stock exchanges, the price at which such property closed on the last regular business day preceding the assessment day shall be prima facie evidence of the fair cash value of such property. The property of one (1) person shall not be assessed willfully or intentionally at a lower or higher relative value than the same class of property of another, and any grossly discriminatory valuation shall be construed as an intentional discrimination. The property valuation administrator shall make every effort, through visits with the taxpayer, personal inspection of the property, from records, from his own knowledge, from information in property schedules, and from such other evidence as he may be able to obtain, to locate, identify, and assess property.

(2) (a) In determining the total area of land devoted to agricultural or horticultural use, there shall be included the area of all land under farm buildings, greenhouses and like structures, lakes, ponds, streams, irrigation ditches and similar facilities, and garden plots devoted to growth of products for on-farm personal consumption but there shall be excluded, land used in connection with dwelling houses including, but not limited to, lawns, drives, flower gardens, swimming pools, or other areas devoted to family recreation. Where contiguous land in agricultural or horticultural use in one (1) ownership is located in more than one (1) county or taxing district, compliance with the minimum requirements shall be determined on the basis of the total area of such land and not the area of land which is located in the particular county or taxing district.

(b) Land devoted to agricultural or horticultural use, where the owner or owners have petitioned for, and been granted, a zoning classification other than for agricultural or horticultural purposes qualifies for the agricultural or horticultural assessment until such time as the land changes from agricultural or horticultural use to the use granted by the zoning classification.

(c) When the use of a part of a tract of land which is assessed as agricultural or horticultural land is changed either by conveyance or other action of the owner, the right of the remaining land to be retained in the agricultural or horticultural assessment shall not be impaired provided it meets the minimum requirements, except the minimum ten (10) contiguous acre requirement shall not be applicable if any portion of the agricultural or horticultural land has been acquired for a public purpose as long as the remaining land continues to meet the other requirements of this section.

(d) When in the opinion of the property valuation administrator any land has a value in excess of that for agricultural or horticultural use the property valuation administrator shall enter into the tax records the value of the property according to its fair cash value. When the property valuation administrator determines that the land meets the requirements for valuation as agricultural or horticultural land, the valuation for tax purposes shall be its agricultural or horticultural value.

(3) When land which has been valued and taxed as agricultural land for five (5) or more consecutive years under the same ownership fails to qualify for the classification through no other action on the part of the owner or owners other than ceasing to farm the land, the land shall retain its agricultural classification for assessment and taxation purposes. Classification as agricultural land shall expire upon change of use by the owner or owners or upon conveyance of the property to a person other than a surviving spouse.

(4) If the property valuation administrator assesses any property, except stocks and bonds at the market value listed in recognized publications, at a greater value than that listed by the taxpayer or assesses unlisted property, the property valuation administrator shall serve notice on the taxpayer of such action. The notice shall be given by first-class mail or as provided in the Kentucky Rules of Civil Procedure.

(5) Any taxpayer may designate on the property schedule any property which he does not consider to be subject to taxation, and it shall be the duty of the property valuation administrator to obtain and follow advice from the ***department***[~~cabinet~~] relative to the taxability of such property.

Section 197. KRS 132.460 is amended to read as follows:

The property valuation administrator, or an authorized deputy, shall attend all hearings before the county board of assessment appeals and before the Kentucky Board of Tax Appeals relative to his assessment and submit to examination and fully disclose to them such information as he may have and any other matters pertinent to the inquiry being made. He shall be entitled to reimbursement from the county for expenses incurred in official business outside his county. If the ***Department of*** Revenue[~~Cabinet~~] directs him to perform official duties outside of his county, the expenses shall be paid from the appropriation for the payment of the salaries of the property valuation administrators. Such reimbursement shall be paid on the same basis as employees of the Commonwealth are paid for travel expenses.

Section 198. KRS 132.485 is amended to read as follows:

(1) (a) The registration of a motor vehicle with a county clerk in order to operate it or permit it to be operated upon the highways of the state shall be deemed consent by the registrant for the motor vehicle to be assessed by the property valuation administrator from a standard manual prescribed by the ***Department of*** Revenue[~~Cabinet~~] for valuing motor vehicles for assessment unless the registrant appears before the property valuation administrator to assess the vehicle. The standard value of motor vehicles shall be the average trade-in value prescribed by the valuation manual unless information is available that warrants any deviation from the standard value.

(b) The registration of a recreational vehicle with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant thereof for the recreational vehicle to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the ***Department of*** Revenue[~~Cabinet~~] for valuing recreational vehicles for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.

(2) The registration of a motor vehicle on or before the date that the registration of the vehicle is required is prima facie evidence of ownership on January 1.

(3) This section does not apply to motor vehicles or recreational vehicles owned and operated by public service companies, common carriers, or agencies of the state and federal governments.

Section 199. KRS 132.486 is amended to read as follows:

(1) The ***Department of*** Revenue[~~Cabinet~~] shall develop and administer a centralized ad valorem assessment system for intangible personal property and tangible personal property. This system shall be designed to provide on-line computer terminals and accessory equipment in every property valuation administrator's office in the state in order to create and maintain a centralized personal property tax roll database.

(2) State income tax returns and return preparation instructions shall be revised to facilitate the preparation of the personal property tax return; however, the personal property tax return shall be a separate document and shall be listed with the property valuation administrator in the county of taxable situs according to the provisions of KRS 132.220(1) or with the ***Department of*** Revenue[~~Cabinet~~]. The ***Department of*** Revenue[~~Cabinet~~] shall promulgate administrative regulations and develop forms for the listing and assessment of personal property.

(3) Appeals of personal property assessments shall not be made to the county board of assessment appeals. Personal property taxpayers shall be served notice under the provisions of KRS 132.450(4) and shall have the protest and appeal rights granted under the provision of KRS 131.110.

(4) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in a protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

Section 200. KRS 132.487 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall develop and administer a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. This system shall be designed to allow the collection of state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on each motor vehicle at the time of registration of the motor vehicle by the party charged with issuing the registration. The ***department***[~~cabinet~~] shall supervise and instruct the property valuation administrators and other officials with respect to their duties in relation to this system.

(2) Except as otherwise provided by law, the tax rate levied by the state, counties, schools, cities, and special tax districts on motor vehicles shall not exceed the rate that could have been levied on motor vehicles by the district on the January 1, 1983 assessments. All counties, schools, cities, and special taxing districts proposing to levy an ad valorem tax on motor vehicles shall submit to the ***department***[~~cabinet~~] on or before October 1 of the year preceding the assessment date, the tax rate to be levied against valuations as of that assessment date. Any district that fails to timely submit the tax rate shall receive the rate in effect for the prior year.

(3) The compensating tax rate and maximum possible tax rate allowable for counties, schools, cities, and special taxing districts on property other than motor vehicles for the 1984 and subsequent tax periods shall be calculated excluding all valuations of and tax revenues from motor vehicles from the base amounts used in arriving at these general rates.

(4) The Transportation Cabinet shall provide access to all records of motor vehicle registrations to the ***department***[~~cabinet~~] and the property valuation administrators as necessary to prepare and maintain a complete tax roll of motor vehicles throughout each year.

(5) The property valuation administrator shall, subject to the direction, instruction, and supervision of the ***department***[~~cabinet~~], have responsibility for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The ***department***[~~cabinet~~] may provide standard valuation guidelines for use in valuation of motor vehicles.

(6) The property valuation administrator shall provide to the ***department***[~~cabinet~~] by December 1 of each year a recapitulation of motor vehicles to be assessed as of January 1 of the next year.

(7) Procedures for protest, appeal, and correction of erroneous assessments shall be the same for motor vehicles as for other properties subject to ad valorem taxes.

Section 201. KRS 132.490 is amended to read as follows:

(1) Each county clerk shall, by March 1 of each year, unless the time is extended by the ***Department of*** Revenue[~~ Cabinet~~], make and certify to the various property valuation administrators complete statements of all purchase money notes, mortgage notes and other obligations for money due, except those owned by banks, trust companies or real estate title insurance companies, as shown by the conveyances, mortgages and liens in his office. The statements shall distinctly show the dates of execution and maturity of the notes or other evidences of indebtedness, the consideration, the date of filing or recording, the amount, and the county of the residence of the owner, payee, beneficial holder thereof or other person liable for taxes thereon.

(2) The statements shall be made to each property valuation administrator of the state as to the notes or other evidences of indebtedness owned or held by persons residing or having their principal place of business in the county of that property valuation administrator. Each statement shall cover a period of one (1) year next prior to January 1 of each year. The statements shall be sworn to by the clerk before some person authorized to administer oaths, as a complete statement of the facts.

(3) For his services in making these statements, the clerk shall be paid reasonable compensation by the fiscal court of his county.

Section 202. KRS 132.510 is amended to read as follows:

Every executor, administrator, guardian, conservator, trustee, trustee in bankruptcy, receiver or other person acting in a fiduciary capacity shall, when required, file with the ***Department of*** Revenue[~~ cabinet~~] a sworn inventory showing in detail the amount and character of personal property in his hands, unless the inventory has been filed as a public record in the court in which the fiduciary qualifies. The ***department***[~~cabinet~~] may examine the books and accounts of any person acting in a fiduciary capacity. No fiduciary shall receive a final discharge until he has satisfied the court settling his accounts that all taxes against the estate have been paid.

Section 203. KRS 132.520 is amended to read as follows:

(1) Every bank, trust company, combined bank and trust company, and real estate title insurance company doing business in this state shall, by February 1 of each year, unless the time is extended by the ***Department of*** Revenue[~~ Cabinet~~], file with the ***department***[~~cabinet~~] a report sworn to by its president, vice president, treasurer, or cashier, showing as of January 1 of each year:

 (a) A list of the notes, bonds, or other evidences of indebtedness secured by mortgage or other recorded instrument standing in its name of record that it has assigned or transferred during the preceding year without making a transfer of record, the amount of each, and the name and address of the person to whom each was assigned. Where the name and address of the transferee holding the securities on January 1 of any year is given, any previous transfers of the securities during that year need not be furnished.

 (b) A list of the mortgages standing in its name on January 1 that were assigned of record to it during the preceding year with its knowledge and consent, where it has not become the absolute owner of the debt secured thereby, showing the amount of each such mortgage and the name and address of each assignor. Any mortgage assigned to it during any year and paid and released of record prior to January 1 need not be included in the report.

 (c) A list of all debenture bonds, collateral trust bonds, notes, certificates, and other evidences of indebtedness issued, assigned, or transferred by it during the preceding year that are secured by and represent the beneficial interest in lien notes, bonds, or mortgages standing in its name of record, the amount of each such evidence of indebtedness, and the name and address of the person to whom each was assigned or transferred. Where the name and address of the transferee holding the securities on January 1 of any year is given, any previous transfer or assignment of the securities need not be furnished.

 (d) A list of all lien notes, bonds, mortgages, certificates, and other evidences of indebtedness that it has assigned or transferred to any person as security for the issuing of any debenture or collateral trust bonds, the amount of each, and the name and address of the person to whom each was assigned.

(2) The reports required under paragraphs (a) and (b) of subsection (1) of this section need not include sales or pledges from one (1) bank, trust company, or combined bank and trust company to another bank or company, or notes or obligations secured by any recorded instrument executed to a bank, trust company, or a combined bank and trust company in which the obligations secured by the instrument are divided among estates or accounts in charge of the bank or company and regularly and properly entered on its records. The provisions of this section do not apply to mortgages made by corporations to trustees to secure bond issues made by them in the regular course of business, except as provided in paragraph (c) of subsection (1) of this section.

(3) The information thus obtained shall be communicated by the ***department***[~~cabinet~~] to the property valuation administrator and the board of assessment appeals of the respective counties in which the true owners of the debts reside.

Section 204. KRS 132.550 is amended to read as follows:

(1) After the county clerk has completed the services required of him upon delivery of the tax rolls and schedules to him by the property valuation administrator, he shall then calculate the taxes due the state, county, school, county polls, and school polls, for each individual taxpayer, opposite their name in the tax rolls, upon the form prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The rolls and forms shall be a permanent record of the county clerk's office.

(2) For performing the services required by this section the county clerk shall be paid the sum of fifteen cents ($0.15) for each tax list on the tax rolls, one-half (1/2) of this sum to be paid by the state, and the other one-half (1/2) to be paid by the county.

Section 205. KRS 132.570 is amended to read as follows:

(1) No person shall willfully make a false statement, or, to avoid taxation, make a temporary investment in securities exempt from taxation, or convert any intangible property into nontaxable property outside of this state, or resort to any device to evade taxation. Any person doing so shall be subject to three (3) times the amount of tax upon his property, to be recovered by the sheriff by action in the name of the Commonwealth in the county in which the property is liable for taxation, or by the ***Department of*** Revenue[~~ Cabinet~~], when the taxes are payable to it, in the Franklin Circuit Court.

(2) No person shall transfer or assign of record any mortgage note, bond or other evidence of indebtedness, secured by any recorded instrument, for the sole purpose of evading the taxes thereon.

Section 206. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the ***Department of*** Revenue[~~ Cabinet~~] annually. Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the ***department***[~~cabinet~~] shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. If the county population as certified by the ***department***[~~cabinet~~] increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no affect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the ***Department of*** Revenue[~~ Cabinet~~] the total number of years, not to exceed four (4) years, that the person has previously served in the office. The ***department***[~~cabinet~~] shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Property Valuation Administrators			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$45,387	$46,762	$48,137	$49,513
Group II				
5,000-9,999	49,513	50,888	52,263	53,639
Group III				

10,000-19,999	53,639	55,014	56,389	57,765
Group IV				
20,000-29,999	55,702	57,765	59,828	61,891
Group V				
30,000-44,999	59,828	61,891	63,954	66,017
Group VI				
45,000-59,999	61,891	64,641	67,392	70,143
Group VII				
60,000-89,999	66,017	68,768	71,518	74,269
Group VIII				
90,000-499,999	68,080	71,518	74,957	78,395
Group IX				
500,000 and up	72,206	75,644	79,083	82,521

(3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on July 14, 2000, and shall not be retroactive to the preceding January 1.

(b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1.

(c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an annual incentive of six hundred eighty-seven dollars and sixty-seven cents ($687.67) per calendar year for each forty (40) hour training unit successfully completed based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If a property valuation administrator fails without good cause, as determined by the ***commissioner***[~~secretary~~] of the Kentucky ***Department of*** Revenue[~~ Cabinet~~], to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. No property valuation administrator shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each property valuation administrator shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~]. Each unit shall be available to property valuation administrators in each office based on continuing service in that office. The Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.

(5) Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The ***Department of*** Revenue[~~ Cabinet~~] may make grade classification changes corresponding to any approved for ***department***[~~cabinet~~] employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the ***department***[~~cabinet~~] may extend cost-of-living increases approved for ***department***[~~cabinet~~] employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.

(6) Beginning with the 1990-1992 biennium, the ***Department of*** Revenue[~~ Cabinet~~] shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. The total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the ***Department of*** Revenue[~~ Cabinet~~]. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

(7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the

following fiscal year to the ***Department of*** Revenue[~~ Cabinet~~] a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The ***Department of*** Revenue[~~ Cabinet~~] shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.

(8) Each property valuation administrator may appoint any persons approved by the ***Department of*** Revenue[~~ Cabinet~~] to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the ***Department of*** Revenue[~~ Cabinet~~] and shall be subject to the approval of the ***Department of*** Revenue[~~ Cabinet~~]. The Personnel Cabinet shall provide advice and technical assistance to the ***Department of*** Revenue[~~ Cabinet~~] in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the ***Department of*** Revenue[~~ Cabinet~~] in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the ***Department of*** Revenue[~~ Cabinet~~] prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
----	$100,000,000	$0.005 for each $100 of the first $50,000,000 and $0.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$0.004 for each $100 of the first $100,000,000 and $0.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$0.004 for each $100 of the first $150,000,000 and $0.003 for each $100 over $150,000,000.
300,000,000	----	$0.004 for each $100.

(10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
----	$700,000,000	$25,000
$700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	-----	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the ***Department of*** Revenue[~~ Cabinet~~] only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State

Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.

(12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.

(13) The provisions of this section shall apply to urban-county governments and consolidated local governments. In an urban-county government and a consolidated local government, all the rights and obligations conferred on fiscal courts or consolidated local governments by the provisions of this section shall be exercised by the urban-county government or consolidated local government.

(14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A or when a consolidated local government is established through merger of existing city and county governments as provided by KRS Chapter 67C, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government or consolidated local government with an assessment subject to countywide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government or consolidated local government with an assessment subject to countywide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000), and two hundred thousand dollars ($200,000) for an urban-county government or consolidated local government with an assessment subject to countywide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(15) Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9) and (10) of this section, whichever is greater.

Section 207. KRS 132.597 is amended to read as follows:

(1) The property valuation administrator of each county shall receive an annual expense allowance of three thousand six hundred dollars ($3,600) to be paid from the State Treasury in monthly installments of three hundred dollars ($300). Property valuation administrators shall not be required to keep records verifying expenditures from this expense allowance.

(2) The expense allowance provided in subsection (1) of this section shall be used by the property valuation administrator for expenses incurred in the performance of his duties. The allowance is to provide the necessary funds for payment of all expenditures of the property valuation administrator not directly associated with the assessment of property in his particular county.

(3) Each property valuation administrator shall annually, within each calendar year, participate in a minimum of thirty (30) classroom hours of professional instruction conducted or approved by the ***Department of*** Revenue[~~ Cabinet~~]. Any property valuation administrator failing to meet the ***department's***[~~cabinet's~~] requirements for any calendar year shall not receive the three thousand six hundred dollar ($3,600) annual expense allowance provided in subsection (1) of this section for the subsequent calendar year.

(4) The annual requirement for participation in classroom instruction shall be reduced to fifteen (15) hours for any property valuation administrator awarded the "senior Kentucky assessor" (SKA) professional designation under the provisions of KRS 132.385.

Section 208. KRS 132.601 is amended to read as follows:

(1) The property valuation administrator of any county may, after receiving an approved budget from the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 132.590, obligate and spend any of the local funds accruing to his office under the provisions of KRS 132.590 or KRS 132.285, over and above that actually used in compensating his deputies and assistants, for the purchase of any maps, lists, charts, materials, supplies or equipment, or for other expenses necessary to the proper assessment of property or preparation and maintenance of assessment rolls and records.

(2) The property valuation administrator shall maintain a bank account for the management of local funds received by his office under the provisions of KRS 132.590 and 132.285. Beginning with the 1990-1992 biennium, at the end of each fiscal year a cumulative carryover of local funds equivalent to the total annual local appropriation for the ending fiscal year or five thousand dollars ($5,000), whichever is greater, shall be retained. Any funds in excess of this amount shall be refunded by the property valuation administrator no later than August 1 to the appropriating local governments in direct proportion to their respective appropriations.

(3) Expenditures made by the office of the property valuation administrator under the provisions of subsection (1) of this section shall be governed by procurement procedures adopted by the fiscal court in the county administrative code required by KRS 68.005. However, after approval of the annual budget for the office of the property valuation administrator provided in KRS 132.590 by the ***Department of*** Revenue[~~ Cabinet~~], the necessity of the expenditure shall not be questioned by the fiscal court. The ***Department of*** Revenue[~~ Cabinet~~] shall have neither authority nor responsibility in the auditing of expenditures made by the property valuation administrator from locally appropriated funds. The Auditor of Public Accounts shall assume the responsibility.

Section 209. KRS 132.605 is amended to read as follows:

(1) The fiscal court of each county shall have jurisdiction and the power to purchase and supply to the property valuation administrator any maps, lists, charts, materials, supplies, equipment or instruments which are reasonably necessary for a complete and accurate assessment of property in the county. The ***Department of*** Revenue[~~ Cabinet~~] is authorized to purchase and loan any property valuation administrator such maps, lists, charts, materials, supplies, equipment or instruments as are urgently needed by any property valuation administrator, provided that the ***Department of*** Revenue[~~ Cabinet~~] keeps a record thereof.

(2) The fiscal court of any county shall provide for the maintenance of all maps, lists, charts, materials, supplies, equipment or instruments owned by a county or supplied to it by the ***Department of*** Revenue[~~ Cabinet~~] or by any source in cooperation with the ***Department of*** Revenue[~~ Cabinet~~] for the purpose of facilitating the assessment of property.

Section 210. KRS 132.620 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall recover from any property valuation administrator all compensation paid to him for assessments that were unauthorized or excessive when and to the extent it is determined by a final order of the board of assessment appeals, Kentucky Board of Tax Appeals, or a court of competent jurisdiction that such assessments were unauthorized or excessive. Whenever the property valuation administrator fails to render the services required of him or he performs any of his duties in such a manner as to fail to comply substantially with the requirements of the law, he shall be required to pay a sum that will reasonably compensate the Commonwealth of Kentucky for its costs in rendering the duties required to be performed by the property valuation administrator. The ***Department of*** Revenue[~~ Cabinet~~] shall notify the property valuation administrator by certified mail, return receipt requested, of any amount charged to be due under this section and a statement of the reasons therefor. The property valuation administrator shall be entitled to a hearing before the Kentucky Board of Tax Appeals, and an appeal may be taken from the final action of the Kentucky Board of Tax Appeals to the courts as provided by law.

(2) Any sum that may become due from any property valuation administrator by reason of this section may be deducted from any amount that the Commonwealth of Kentucky may become obliged to pay such property valuation administrator, or it may be collected from the bondsman of the property valuation administrator.

Section 211. KRS 132.645 is amended to read as follows:

(1) The property valuation administrator of each county shall be paid from the State Treasury each month as provided in KRS 132.590.

(2) Deputies, other authorized personnel, and other authorized expenditures of the property valuation administrator's office shall be paid from the State Treasury monthly as approved by the ***Department of*** Revenue[~~ Cabinet~~] as provided in KRS 132.590 (2).

Section 212. KRS 132.645 is amended to read as follows:

(1) The property valuation administrator of each county shall be paid from the State Treasury each month as provided in KRS 132.590.

(2) Deputies, other authorized personnel, and other authorized expenditures of the property valuation administrator's office shall be paid from the State Treasury monthly as approved by the ***Department of*** Revenue[~~ Cabinet~~] as provided in KRS 132.590 (2).

Section 213. KRS 132.660 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall have authority to order an emergency assessment of all or any part of the taxable property in any taxing district to be made by one (1) or more persons appointed for that purpose by the ***department***[~~cabinet~~], whenever: there has been no regular assessment; the records of an assessment have been destroyed, mutilated or lost; complaint is made by the owners of not less than ten percent (10%) in value of the taxable property in the taxing district; or investigation of the ***department***[~~cabinet~~] discloses that the assessment of property in such taxing district is so grossly inequitable or fiscally infeasible that an emergency exists. The order directing such emergency assessments shall state the reasons therefor and a copy shall be filed in the office of the county clerk where the property lies. Such order, when filed, shall void any assessment for the assessment year for which the emergency assessment is made. Any person appointed to make such an emergency assessment shall have the same powers and duties as the property valuation administrator. Whenever the tax roll has been completed under an emergency assessment and the tentative valuations have been determined, the ***department***[~~cabinet~~] shall cause to be published pursuant to KRS Chapter 424, a notice as to the date when the tax roll will be ready for inspection and the time available for such purpose; also a copy of the notice shall be posted at the courthouse door. If any property is assessed at a greater value than that listed by the taxpayer or unlisted

property is assessed, the taxpayer shall be charged with notice of such action by reason of the inspection period, and no further notice need be given of such action taken before the beginning of the inspection period. At the close of the inspection period, the tax roll shall be delivered to the county clerk and the county judge/executive shall immediately convene the board of assessment appeals to hear and determine any appeals from such emergency assessment. The board shall remain in session for the time and shall receive the compensation as provided in KRS 133.030(3). Appeals shall be taken and heard from such emergency assessments in the same manner as appeals from regular assessments.

(2) The ***department***[~~cabinet~~] may appoint the property valuation administrator to make an emergency assessment provided he was not at fault, and if the property valuation administrator is so appointed he shall receive reasonable compensation for his services in making this assessment, which shall not affect in any manner the payment to him of any compensation that he has received for himself or on behalf of a deputy or that may be due him, for services in making the regular assessment. Whenever through the property valuation administrator's fault an emergency assessment is ordered, the property valuation administrator shall become liable for the cost thereof as provided in KRS 132.620, such cost to be limited to the amount due or paid him in accordance with the provisions of KRS 132.590.

Section 214. KRS 132.670 is amended to read as follows:

(1) The ***Department of*** Revenue[~~Cabinet~~] shall prepare detailed maps identifying every parcel of real property within each county of the state. Each county shall furnish to the ***department***[~~cabinet~~] adequate facilities in the county courthouse in which to work. The ***Department of*** Revenue[~~Cabinet~~] shall prescribe methods and specifications for the mapping of property. Personnel authorized to assist in making property identification maps under this section may be given the same authority as a deputy property valuation administrator. Locally employed mapping project personnel shall be compensated in the same manner as deputies or assistants in the property valuation administrator's office.

(2) The ***Department of*** Revenue[~~Cabinet~~] shall conduct a biennial review of the quality of maps and ownership records in each county. If, in the first review conducted under these provisions, the maps and records in any county fail to meet the minimum standards established by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] shall assume responsibility for remapping, revision, and updating under the provisions of subsection (1) of this section. Minimum maintenance standards to be followed by each property valuation administrator shall be established by the ***department***[~~cabinet~~].

Section 215. KRS 132.672 is amended to read as follows:

(1) The ***Department of*** Revenue[~~Cabinet~~] is authorized to establish an account entitled the "mapping project account" which is a fund created within the restricted fund group set forth in KRS 45.305. The purpose of this account is to provide funds for the mapping project as set forth in KRS 132.670. This account shall not lapse.

(2) There is hereby authorized to be deposited into this account the balance of the money heretofore deposited in the "Kentucky Wastewater Revolving Fund" created pursuant to KRS 107.600, now repealed.

(3) The ***commissioner***[~~secretary~~] of revenue or any person duly authorized by him shall have the authority to withdraw from this account for the purpose set forth in subsection (1) of this section.

Section 216. KRS 132.690 is amended to read as follows:

(1) Each parcel of taxable real property or interest therein subject to assessment by the property valuation administrator shall be revalued during each year of each term of office by the property valuation administrator at its fair cash value in accordance with standards prescribed by the ***Department of*** Revenue[~~Cabinet~~] and shall be physically examined no less than once every four (4) years by the property valuation administrator or his assessing personnel. In accordance with procedures prescribed by the ***Department of*** Revenue[~~Cabinet~~], the property valuation administrator shall submit an assessment schedule to the ***department***[~~cabinet~~] and shall maintain a record of physical examination and revaluation for each parcel of real property which includes, in addition to other relevant information, the inspection dates.

(2) The right of any individual to appeal the assessment on his property in any year as provided in KRS 133.120 shall in no way be affected by this section.

(3) If the property valuation administrator fails to revalue property as required by this section, the ***Department of*** Revenue[~~Cabinet~~] shall have the authority to order an emergency revaluation in the same manner as provided for emergency assessments by KRS 132.660. Any property valuation administrator willfully violating the provisions of subsection (1) of this section or who refuses to comply with the directions of the ***Department of*** Revenue[~~Cabinet~~] to correct the assessment shall have his compensation suspended by the ***department***[~~cabinet~~] and shall be subject to removal from office as provided by KRS 132.370(4) and shall be subject to the provisions of KRS 132.620 and 61.120.

(4) Nothing in this section shall prohibit action by the ***Department of*** Revenue[~~Cabinet~~] under the provisions of KRS 133.150 or 132.660 in any year in which the ***department***[~~cabinet~~] determines such action to be necessary.

Section 217. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the ***Department of*** Revenue[~~Cabinet~~]. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax

paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth of Kentucky on January 1 of the year in which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification for the entirety of the particular taxation period.

(d) Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis.

(e) Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying the unit, but the sixty-five hundred dollars ($6,500) exemption shall be construed to mean sixty-five hundred dollars ($6,500) in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one percent (1%), the maximum exemption shall be adjusted accordingly.

(f) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(g) A mobile home, recreational vehicle, when classified as real property as provided for in KRS 132.751, or a manufactured house shall qualify as a residential unit for purposes of the homestead exemption provision.

(h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator, or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city, or special district purposes.

(4) The provisions of this section shall become effective with the 1982 taxable year and persons eligible for a homestead exemption under this section, who have not previously filed under the age provision of the homestead exemption, shall file applications by December 31 of the taxation period.

(a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification at the end of the taxation period for which the homestead exemption has been granted. In no case shall the exemption be prorated for persons who maintained the total disability classification at the end of the taxation period.

(b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.

(c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.

(d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

(5) In this section, "taxation period" means the period from January 1 through December 31 of the year in which application is made, unless the person maintaining the classification dies before December 31, in which case "taxation period" means the period from January 1 to the date of death.

Section 218. KRS 132.815 is amended to read as follows:

(1) Each electrical inspector certified under KRS 227.489 shall submit a monthly report to the ***Department of*** Revenue[~~Cabinet~~] showing the names and addresses of all persons, firms, or corporations for which inspections were conducted for new buildings, new or relocated mobile homes, and other new or relocated structures during the preceding month. Each building, mobile home, or other structure shall be identified by county and property address, or property location in those instances where the address is insufficient to reveal the physical location of the property.

(2) The information provided shall be used for the purpose of making and maintaining accurate assessment records. The

Department of Revenue[~~ Cabinet~~] shall provide to each electrical inspector the necessary forms and instructions for filing the report required under subsection (1).

Section 219. KRS 132.820 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances. Unmined coal, oil, and gas reserves and other mineral or energy resources shall in all cases be valued and assessed by the ***Department of*** Revenue[~~ Cabinet~~] as a distinct interest in real property, separate and apart from the surface real estate unless:

(a) The unmined coal, oil and gas reserves, and other mineral or energy resources are owned in their entirety by the surface owner;

(b) The surface owner is neither engaged in the severance, extraction, processing, or leasing of mineral or other energy resources nor is he an affiliate of a person who engages in those activities; and

(c) The surface is being used by the surface owner primarily for the purpose of raising for sale agricultural crops, including planted and managed timberland, or livestock or poultry.

For purposes of this section, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, file a return with the ***department***[~~cabinet~~] in a form as the ***department***[~~cabinet~~] may prescribe. Other individuals or corporations having knowledge of the property defined in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the ***department***[~~cabinet~~] to file a return.

(3) Any property subject to assessment by the ***department***[~~cabinet~~] under subsection (1) of this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be omitted property.

(4) After the valuation of unmined minerals or other energy sources has been finally fixed by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection.

(5) The notification, protest, and appeal of assessments under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 131.

(6) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(7) The collection of tax bills generated from the assessments made under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 134.

Section 220. KRS 132.990 is amended to read as follows:

(1) Any person who willfully fails to supply the property valuation administrator or the ***Department of*** Revenue[~~ Cabinet~~] with a complete list of his property and such facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars ($500).

(2) Any property valuation administrator who willfully fails or neglects to perform any duty legally imposed upon him shall be fined not more than five hundred dollars ($500) for each offense.

(3) Any county clerk who willfully fails or neglects to perform any duty required of him by KRS 132.480 or by KRS 132.490 shall be fined not more than fifty dollars ($50) for each offense.

(4) Any person who willfully falsifies application for exemption or who fails to notify the property valuation administrator of any changes in qualifying requirements under the provision of KRS 132.810 shall be fined not more than five hundred dollars ($500).

Section 221. KRS 133.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the county board of assessment appeals.

(2) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(3) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(4) "Real property" includes all lands within this state and improvements thereon.

(5) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

Section 222. KRS 133.020 is amended to read as follows:

(1) The county board of assessment appeals shall be composed of reputable real property owners residing in the county at least five (5) years. The appointing authorities may appoint qualified property owners residing in adjacent counties when qualified members cannot be secured within the county. The board shall consist of three (3) members, one (1) to be appointed by the county judge/executive, one (1) to be appointed by the fiscal court, and one (1) to be appointed by the mayor of the city with the largest assessment using the county tax roll or appointed as otherwise provided by the comprehensive plan of an urban-county government. Beginning with the 1995 appeals, the mayor's appointment shall serve for four (4) years, the county judge/executive's appointment shall serve for three (3) years, and the fiscal court's appointment shall serve for two (2) years. Each person appointed thereafter shall serve for three (3) years. If no city in the county uses the county assessment, the county judge/executive shall appoint two (2) members. Board members appointed prior to July 14, 1994, shall be eligible for reappointment by the appointing authority if they meet the requirements of subsection (2) of this section. A board member who has served for a full term shall not be eligible for reappointment. However, he shall be eligible for appointment after a hiatus of three (3) years. If the number of appeals to the board of assessment appeals filed with the county clerk exceeds one hundred (100), temporary panels of the board may be appointed with approval of the ***Department of*** Revenue[~~ Cabinet~~]. Each temporary panel shall consist of three (3) members having the same qualifications and appointed in the same manner as the board members. The number of additional panels shall not exceed one (1) for each one hundred (100) appeals in excess of the first one hundred (100). The county judge/executive shall designate one (1) of the members of the board of assessment appeals to serve as chairman of the board. If additional panels are appointed, as provided in this subsection, the chairman of the board of assessment appeals shall designate one (1) member of each additional panel as chairman of the panel. A majority of the board or of any panel may determine the action of the board or panel respectively and make decisions. Each panel of the board shall have the same powers and duties given the board by KRS 133.120, except the action of any panel shall be subject to review and final approval by the board.

(2) Each member of the board shall have extensive knowledge of real estate values, preferably in real estate appraisal, sales, management, financing, or construction. In counties with cities of the first, second, or third class, the member appointed by the mayor shall be a certified real estate appraiser unless the mayor provides sufficient proof to the ***department***[~~cabinet~~] of his inability to secure a certified real estate appraiser.

(3) The board shall be subject to call by the county judge/executive at any time prescribed by law.

(4) The members of the county board of assessment appeals, and any panel of the board, before undertaking their duties, shall take the following oath, to be administered by the county judge/executive: "You swear (affirm) that you will, to the best of your ability, discharge the duties required of you as a member of the county board of assessment appeals, and that you will fix at fair cash value all property assessments brought before you for review as prescribed by law."

(5) The ***department***[~~cabinet~~] shall prepare and furnish to each property valuation administrator guidelines and materials for an orientation and training program to be presented to the board by the property valuation administrator or his deputy each year.

(6) A board member shall produce evidence of his qualifications upon request of the ***department***[~~cabinet~~]. A board member shall be replaced by the appointing authority upon proof of the member's failure to meet the qualifications of the position. Any vacancy on the board shall be filled by the appointing authority that appointed the member to be replaced. The appointee shall have the qualifications required by statute for the board member appointed by the particular appointing authority and shall hold office only to the end of the unexpired term of the member replaced.

(7) Members of the county board of assessment appeals, and any temporary panel, shall abstain from hearing or ruling on an appeal for any property in which they have any personal or private interests.

Section 223. KRS 133.030 is amended to read as follows:

(1) The county board of assessment appeals shall convene each year at the county seat no earlier than twenty-five (25) days and no later than thirty-five (35) days following the conclusion of the tax roll inspection period provided for in KRS 133.045; except that no meeting shall be held until the tax roll has been completed and the inspection period has been held as provided by law, or until revaluation of the property has been completed by the property valuation administrator at the direction of the ***Department of*** Revenue[~~ Cabinet~~] as provided by KRS 132.690 or by the ***department***[~~cabinet~~] itself as provided by KRS 133.150. All records of the property valuation administrator, including all data concerning property sales within the preceding year, shall be available to the board while meeting.

(2) The first regular meeting day of the board shall be devoted to the orientation and training program provided for in KRS 133.020(5), to a review of the assessment of the property valuation administrator and his deputies, and to a review of the appeals filed with the county clerk as clerk of the board, including a review of recent sales of comparable properties provided in accordance with the provisions of subsection (1) of this section, and an inspection of the properties involved in the appeals when in the opinion of the board such inspection will assist in the proper determination of fair cash value.

(3) The board of assessment appeals shall continue in session only such time as is necessary to hear appeals. The board shall not continue in session more than one (1) day, if there are no appeals to be heard, nor more than five (5) days after it convenes in each year, unless an extension of time is authorized by the ***Department of*** Revenue[~~ Cabinet~~] upon request of the county judge/executive. Each board member shall be paid one hundred dollars ($100) for each day he serves. This compensation shall be paid one-half (1/2) out of the county levy and the other half out of the State Treasury.

(4) Members of temporary panels of the board shall serve the time necessary for hearing appeals but in no case more than five (5) days except upon approval of an extension of time by the ***Department of*** Revenue[~~ Cabinet~~]. Compensation of panel members shall be in the same manner and at the same rate as provided for members of the board.

Section 224. KRS 133.040 is amended to read as follows:

(1) The property valuation administrator shall complete the tax roll of all real property in his county before the first Monday in April of each year in accordance with law, and on or before that date he shall file with the ***department***[~~cabinet~~], on forms provided by the ***department***[~~cabinet~~], a recapitulation of all property assessed on the tax roll with his official certificate attached. The recapitulation shall show the assessment of property by type of property and by taxing district. Within fifteen (15) calendar days after receiving the recapitulation, the ***department***[~~cabinet~~] shall direct the property valuation administrator to make any changes that are necessary to correct the assessment. The ***department***[~~cabinet~~] shall preserve all recapitulations and schedules or a photographic facsimile for a period of seven (7) years from the assessment date.

(2) At the time the property valuation administrator submits his property recapitulations to the ***department***[~~cabinet~~], he shall submit a copy of the recapitulations to the county judge/executive, the treasurer or chief officer of each special district in the county, the chief administrative officer of the urban-county, and the superintendent of each local school district in his county.

(3) Beginning with the 1995 assessment year, if the property valuation administrator has not submitted an acceptable recapitulation to the ***department***[~~cabinet~~] by the first Monday in August, the ***department***[~~cabinet~~] shall, within fifteen (15) days, conduct an investigation into the reasons for the failure. The ***department***[~~cabinet~~] shall notify the property valuation administrator in writing of his right to appear before the ***commissioner***[~~secretary~~] or his designee during the investigation to provide an explanation for the failure to submit an acceptable recapitulation. At any time after the completion of an investigation resulting in a finding that the failure to submit an acceptable recapitulation was not reasonably justified, the ***department***[~~cabinet~~] may declare an emergency assessment under the provisions of KRS 132.660.

(4) If the ***commissioner***[~~secretary~~] determines upon the conclusion of the investigation that the failure to submit an acceptable recapitulation was not reasonably justified, the ***commissioner***[~~secretary~~] shall notify the property valuation administrator in writing of the ***department's***[~~cabinet's~~] findings, and of the ***department's***[~~cabinet's~~] intent to suspend the property valuation administrator's compensation as of the date of the notification and until the date an acceptable recapitulation is submitted. The notification shall inform the property valuation administrator that the amount of compensation suspended under this subsection is subject to forfeiture as provided in subsection (5) of this section.

(5) The property valuation administrator may, within ten (10) days of the date of notice provided for in subsection (4) of this section, request in writing a formal administrative hearing before a ***department***[~~cabinet~~] hearing officer appointed by the ***commissioner***[~~secretary~~]. All hearings shall be conducted in accordance with KRS Chapter 13B. If in the recommended order:

(a) The hearing officer determines, and the ***commissioner***[~~secretary~~] agrees, that the failure to submit an acceptable recapitulation was not reasonably justified, the ***commissioner***[~~secretary~~] shall reaffirm the notice of forfeiture provided for in subsection (4) of this section and issue a final order in writing to the property valuation administrator.

(b) The hearing officer determines, and the ***commissioner***[~~secretary~~] agrees, that the failure to submit an acceptable recapitulation was reasonably justified, the ***commissioner***[~~secretary~~] shall notify the property valuation administrator in a final order, and compensation suspended under subsection (4) of this section shall be paid with interest at the tax interest rate defined in KRS 131.010(6).

(6) If the property valuation administrator does not request in writing a formal administrative hearing within the time prescribed in subsection (5) of this section, the ***commissioner***[~~secretary~~] shall reaffirm the notice of forfeiture provided for in subsection (4) of this section and issue a final order in writing to the property valuation administrator.

(7) The property valuation administrator may appeal the ***commissioner's***[~~secretary's~~] final order in the same manner, and subject to the same provisions as set forth in KRS 132.370(7).

(8) A property valuation administrator who fails to submit an acceptable recapitulation, within the times prescribed in subsection (3) of this section and after a previous finding that a prior year's failure to submit an acceptable recapitulation was determined to not be reasonably justified, shall be subject to removal from office as provided by KRS 132.370(4).

Section 225. KRS 133.045 is amended to read as follows:

(1) The real property tax roll being prepared by the property valuation administrator for the current year, shall be open for inspection in the property valuation administrator's office for thirteen (13) days beginning on the first Monday in May of each year and shall be open for inspection for six (6) days each week, one (1) of which shall be Saturday. In case of necessity, the ***department***[~~cabinet~~] may order a reasonable extension of time for the inspection period of the tax roll or it may order that the inspection period be at a different time than that provided in this section. However, the final day of the inspection period shall not be Saturday, Sunday, or a legal holiday.

(2) The property valuation administrator shall cause to be published once during the week before the beginning of the inspection period, as provided in subsection (1) of this section, in a display type advertisement, the following information:

(a) The fact that the real property tax roll is open for public inspection;

(b) The dates of the inspection period;

(c) The times available for public review of the real property tax roll;

(d) The fact that any taxpayer desiring to appeal an assessment shall first request a conference with the property valuation administrator to be held prior to or during the inspection period; and

(e) Instructions which provide details on the manner in which a taxpayer who has had a conference with the property valuation administrator may file an appeal, if he is aggrieved by an assessment made by the property valuation administrator.

The cost of the notice shall be paid by the fiscal court of the county. The notice shall also be posted at the courthouse door. Failure to publish or post notices when the inspection period is at the regular time as provided in this section shall not invalidate assessments made by the property valuation administrator and recorded on the tax roll prior to the inspection period.

Section 226. KRS 133.047 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 61.870 to 61.884, when the ***Department of*** Revenue[~~ Cabinet~~] has completed action on the assessment of property in any county and has certified the assessment to the county clerk of that county, as provided for in KRS 133.180, the property tax roll, or a copy of the property tax roll, shall be retained in the office of the property valuation administrator for maintenance as an open public record for five (5) years. The property tax roll shall be available for public inspection during the regular working hours of the office of the property valuation administrator as provided for in KRS 132.410(2).

(2) Any person inspecting a property tax roll shall do so in a manner not unduly interfering with the proper operation of the custodian's office.

(3) Personal property tax returns, accompanying documents, and assessment records, with the exception of the certified personal property tax roll, shall be considered confidential under the provisions of KRS 131.190.

(4) Real property tax returns and accompanying documents submitted by a taxpayer shall be considered confidential under the provisions of KRS 131.190. Other real property records in the office of the property valuation administrator shall be subject to the provisions of KRS 61.870 to KRS 61.884. However, notwithstanding the provisions of KRS 61.874 the ***Department of*** Revenue[~~ Cabinet~~] shall develop and provide to each property valuation administrator a reasonable fee schedule to be used in compensating for the cost of personnel time expended in providing information and assistance to persons seeking information to be used for commercial or business purposes. Any person seeking information on his own property, or any other person, including the press, seeking information directly related to property tax assessment, appeals, equalization, requests for refunds, or similar matters shall not be subject to fees for personnel time.

(5) The ***Department of*** Revenue[~~ Cabinet~~] shall provide advice, guidelines, and assistance to each property valuation administrator in implementing the provisions of KRS 61.870 to 61.884.

Section 227. KRS 133.110 is amended to read as follows:

(1) After submission of the final real property recapitulation or certification of the personal property assessment, the property valuation administrator may correct clerical, mathematical, or procedural errors in an assessment or any duplication of assessment. Changes in assessed value based on appraisal methodology or opinion of value shall not be valid. All corrections shall be reviewed by the ***Department of*** Revenue[~~ Cabinet~~] and those changes determined by the ***department***[~~cabinet~~] to be invalid shall be rescinded. Any taxpayer affected by this rescission shall not be subject to additional penalties.

(2) Notwithstanding other statutory provisions, for property subject to a tax rate that is set each year based on the certified assessment, any loss of property tax revenue incurred by a taxing district due to corrections made after the tax rate has been set may be recovered by making an adjustment in the tax rate to be set for the next tax year.

Section 228. KRS 133.120 is amended to read as follows:

(1) Any taxpayer desiring to appeal an assessment on real property made by the property valuation administrator shall first request a conference with the property valuation administrator or his designated deputy. The conference shall be held prior to or during the inspection period provided for in KRS 133.045. Any person receiving compensation to represent a property owner at a conference with the property valuation administrator for a real property assessment shall be an attorney, a certified public accountant, a certified real estate broker, a Kentucky licensed real estate broker, an employee of the property owner, or any other individual possessing a professional appraisal designation recognized by the ***department***[~~cabinet~~]. A person representing a property owner before the property valuation administrator shall present written authorization from the property owner which sets forth his professional capacity and shall disclose to the property valuation administrator any personal or private interests he may have in the matter, including any contingency fee arrangements. Provided however, attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement. During this conference, the property valuation administrator or his deputy shall provide an explanation to the taxpayer of the constitutional and statutory provisions governing property tax administration, including the appeal process, as well as an explanation of the procedures followed in deriving the assessed value for the taxpayer's property. The property valuation administrator or his deputy shall keep a record of each conference which shall include, but shall not be limited to, the initial assessed value, the value claimed by the taxpayer, an explanation of any changes offered or agreed to by each party, and a brief account of the outcome of the conference. At the request of the taxpayer, the conference may

be held by telephone.

(2) Any taxpayer still aggrieved by an assessment on real property made by the property valuation administrator after complying with the provisions of subsection (1) of this section may appeal to the board of assessment appeals. The taxpayer shall appeal his assessment by filing in person or sending a letter or other written petition stating the reasons for appeal, identifying the property for which the appeal is filed, and stating to the county clerk the taxpayer's opinion of the fair cash value of the property. The appeal shall be filed no later than one (1) workday following the conclusion of the inspection period provided for in KRS 133.045. The county clerk shall notify the ***department***[~~cabinet~~] of all assessment appeals and of the date and times of the hearings. The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the county judge/executive, mayor of any city using the county assessment, or the superintendent of any school district in which the property is located, if the recommendation is made to the board in writing specifying the individual properties recommended for review and is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045, or upon the written recommendation of the ***department***[~~cabinet~~]. If the board of assessment appeals determines that the assessment should be increased, it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of an increase. Any real property owner who has listed his property with the property valuation administrator at its fair cash value may ask the county board of assessment appeals to review the assessments of real properties he believes to be assessed at less than fair cash value, if he specifies in writing the individual properties for which the review is sought and factual information upon which his request is based, such as comparable sales or cost data and if the request is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(3) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (2) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value. The ***department***[~~cabinet~~] may be present at the hearing and present any pertinent evidence as it pertains to the appeal. The taxpayer shall provide factual evidence to support his appeal. If the taxpayer fails to provide reasonable information pertaining to the value of the property requested by the property valuation administrator, the ***department***[~~cabinet~~], or any member of the board, his appeal shall be denied. This information shall include, but shall not be limited to, the physical characteristics of land and improvements, insurance policies, cost of construction, real estate sales listings and contracts, income and expense statements for commercial property, and loans or mortgages. The board of assessment appeals shall only hear and consider evidence which has been submitted to it in the presence of both the property valuation administrator or his designated deputy and the taxpayer or his authorized representative.

(4) Any person receiving compensation to represent a property owner in an appeal before the board shall be an attorney, a certified public accountant, a certified real estate appraiser, a Kentucky licensed real estate broker, an employee of the taxpayer, or any other individual possessing a professional appraisal designation recognized by the ***department***[~~cabinet~~]. A person representing a property owner before the county board of assessment appeals shall present a written authorization from the property owner which sets forth his professional capacity and shall disclose to the county board of assessment appeals any personal or private interests he may have in the matter, including any contingency fee arrangements. Provided however, attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.

(5) The board shall provide a written opinion justifying its action for each assessment either decreased or increased in the record of its proceedings and orders required in KRS 133.125 on forms or in a format provided or approved by the ***department***[~~cabinet~~].

(6) The board shall report to the property valuation administrator any real property omitted from the tax roll. The property valuation administrator shall assess the property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(7) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(8) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(9) No appeal shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which he claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(10) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky Board of Tax Appeals. Any persons aggrieved by a decision of the board, including the property valuation administrator, taxpayer, and ***department***[~~cabinet~~], may appeal the decision to the

Kentucky Board of Tax Appeals. Any taxpayer failing to appeal to the county board of assessment appeals, or failing to appear before the board, either in person or by designated representative, shall not be eligible to appeal directly to the Kentucky Board of Tax Appeals.

(11) The county attorney shall represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. If the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.

(12) Taxpayers shall have the right to make audio recordings of the hearing before the county board of assessment appeals. The property valuation administrator may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of the ***department's***[~~cabinet's~~] recording as provided in KRS 61.874.

(13) The county board of assessment appeals shall physically inspect a property upon the request of the property owner or property valuation administrator.

Section 229. KRS 133.123 is amended to read as follows:

When an appeal is taken from an assessment by the property valuation administrator, of property which the owner does not consider to be subject to taxation, it shall be the duty of the county board of assessment appeals to obtain and follow advice from the ***Department of*** Revenue[~~ Cabinet~~] relative to the taxability of such property; however, the board shall have full power and responsibility to make a determination of the fair cash value of such property.

Section 230. KRS 133.125 is amended to read as follows:

(1) No later than three (3) working days after the expiration of the inspection period provided for in KRS 133.045, the county clerk shall provide a copy to the property valuation administrator of each appeal petition and a summary of the appeals filed with the county board of assessment appeals. The summary shall be in a format, or on a form, provided or approved by the ***Department of*** Revenue[~~ Cabinet~~]. The property valuation administrator shall, within three (3) working days of receipt of the summary, prepare and submit to the ***Department of*** Revenue[~~ Cabinet~~] a final recapitulation of the real property tax roll incorporating all changes made since the submission of the first recapitulation. Those properties under appeal shall be listed for recapitulation and certification purposes at the value claimed by the taxpayer. After submission of the final recapitulation to the ***Department of*** Revenue[~~ Cabinet~~], assessments shall not be amended except for adjustments ordered by the board and for corrections made under the provisions of KRS 133.110 and KRS 133.130.

(2) The county clerk, or an authorized deputy, shall act as clerk of the board of assessment appeals; and where additional board panels are appointed, as provided by law, one (1) authorized deputy shall act as clerk for each panel. An accurate record of the proceedings and orders of the board and of each of its authorized panels shall be kept and shall show the name of the owner of the property, the description, the type of property, the amount of the assessment the property valuation administrator placed on the property, and the amount of change made in the assessment by the board. A copy certified by the chairman of the board and attested by the county clerk shall be filed by the clerk with the property valuation administrator and with the ***Department of*** Revenue[~~ Cabinet~~] within five (5) days after the adjournment of the board.

(3) The county clerk shall certify to the county judge/executive the number of days during which the board was in session, and the court shall enter this fact of record along with the amount due the board members for their services. On a presentation of a copy of the order, the Finance and Administration Cabinet shall draw a warrant on the State Treasurer in favor of the board members and clerk for the amount due for their services.

(4) The county clerk and any authorized deputies serving as clerk of the board or a panel thereof shall be allowed the same compensation per day for their services as is allowed to members of the board of their county, and they shall be paid in the same manner as members of the board are paid. The county clerk and his authorized deputies shall be allowed compensation for completing and filing the record of the board in the same manner as allowed for their services while acting as clerk of the board or clerk of a panel of the board.

Section 231. KRS 133.130 is amended to read as follows:

(1) Any person claiming to be erroneously charged with any tax upon property not owned by him may, after he has received notice of the same by demand made upon him to pay the tax, offer evidence in support of the complaint to the property valuation administrator of the county in which the assessment was made. If the property valuation administrator finds that he was not the owner of the property assessed, he may correct the same by releasing him from the payment of the tax, and shall assess the property immediately against the rightful owner.

(2) A protest may be made to the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 131.110 from any action of the property valuation administrator made under this section or under KRS 133.110.

Section 232. KRS 133.150 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall equalize each year the assessments of the property among the counties. It shall compare the recapitulation of the property valuation administrator's books from each county with the records of sales of land in such county or with such other information that it may obtain from any source and shall determine the ratio of the assessed valuation of the property to the fair cash value. The ***Department of*** Revenue[~~ Cabinet~~] shall have power to increase or decrease the aggregate assessed valuation of the property of any county or taxing district thereof or any class of property or any item in any class of property. The ***Department of*** Revenue[~~ Cabinet~~] shall fix the assessment of all property at its fair cash value. When the property in any county, or any class of property in any county, is not assessed at its fair cash value, such assessment shall be increased or decreased to its fair cash value by fixing the percentage of increase or decrease necessary to effect the equalization.

Section 233. KRS 133.160 is amended to read as follows:

When it is contemplated by the ***Department of*** Revenue[~~ Cabinet~~] that it will be necessary to raise the assessed valuation of property in any county, it shall give notice of the contemplated action to the county judge/executive, the superintendent of any school district affected by such action, the mayor of any city which is affected and which has adopted the assessment, and to the taxpayers of that county through the county judge/executive, who shall post the notice sent him on the courthouse door and certify to the ***Department of*** Revenue[~~ Cabinet~~] that this has been done, and it shall fix a time and place for a hearing which may be in Frankfort or any convenient place in or nearer the county seat.

Section 234. KRS 133.170 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.

(2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the aggregate increase to the Kentucky Board of Tax Appeals within ten (10) days from the date of the certification.

(3) Within ten (10) days from the date that the ***department's***[~~cabinet's~~] aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the Kentucky Board of Tax Appeals or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the ***department's***[~~cabinet's~~] action.

(4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal; and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy, of each application for exoneration to the ***Department of*** Revenue[~~ Cabinet~~] and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.

(5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of adjournment of the regular board session.

(6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the ***Department of*** Revenue[~~ Cabinet~~] and to the other taxing districts participating in the tax.

(7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the Kentucky Board of Tax Appeals as provided in KRS 131.340, and appeals thereafter may be taken to the courts as provided in KRS 131.370.

(8) The provisions of KRS 133.120(9) shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.

(9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 133.150.

Section 235. KRS 133.180 is amended to read as follows:

When the ***Department of*** Revenue[~~ Cabinet~~] has completed its action on the assessment of property in any county, it shall immediately certify to the county clerk the assessment and the amount of taxes due. The ***Department of*** Revenue[~~ Cabinet~~] shall charge the amount of taxes due from the county to the sheriff of the county. When any item of property is in process of appeal and the valuation has not been finally determined, the certification of such property shall be based on the valuation claimed by the taxpayer as the true value. The county clerk shall affix the certification to the tax books and enter it of record in the order book, and it shall be the sheriff's or collector's warrant for the collection of taxes.

Section 236. KRS 133.181 is amended to read as follows:

If the ***Department of*** Revenue[~~ Cabinet~~], in making its equalization of the property in any county in accordance with the provisions of KRS 133.150, causes any increase or decrease to be made in the value of any property, the county clerk shall correct the tax books to comply with the final certification of the assessment by the ***department***[~~cabinet~~]. As compensation for his services, the clerk shall receive the same compensation per day that he receives for serving as clerk of the board of assessment appeals for as many days as are necessary to make the corrections but not to exceed a total of ten (10) days. One-half (1/2) of such amounts shall be paid out of the county levy and one-half (1/2) out of the State Treasury. Such sums shall be paid at the same time and in the same manner as is the clerk's compensation for preparing the tax bills under KRS 133.240(2).

Section 237. KRS 133.185 is amended to read as follows:

Except as provided in KRS 132.487, no tax rate for any taxing district imposing a levy upon the county assessment shall be determined before the assessment is certified by the ***Department of*** Revenue[~~ Cabinet~~] to the county clerk as provided in KRS 133.180.

Section 238. KRS 133.200 is amended to read as follows:

(1) In proceedings brought by the state, or by the state on relation of some officer authorized to bring the proceeding, to set aside any order or judgment of a court assessing for taxes for state, county, school or other taxing district purposes any property or omitted property, on the ground of inadequacy of valuation, mistake, fraud, or on any other ground, and to cause a larger assessment to be adjudged, the ***commissioner***[~~secretary~~] of revenue may direct the drawing of warrants on the State Treasurer to pay from time to time such court costs and reasonable expenses as may be incurred on behalf of the state, including the cost of taking and filing depositions and witnesses' fees, and the payment of official court reporters for services and for a copy of the testimony or depositions.

(2) If the state is successful in the proceedings, and the costs of the action are collected, the costs advanced by the state shall be repaid into the State Treasury.

Section 239. KRS 133.220 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] annually shall furnish to each county clerk tax bill forms designed for adequate accounting control sufficient to cover the taxable property on the rolls.

(2) After receiving the forms, the county clerk shall prepare for the use of the sheriff or collector a correct tax bill for each taxpayer in the county whose property has been assessed and whose valuation is included in the certification provided in KRS 133.180. If the bills are bound, the cost of binding shall be paid out of the county levy. Each tax bill shall show the rate of tax upon each one hundred dollars ($100) worth of property for state, county, and school purposes; the name of the taxpayer and his mailing address; the number of acres of farm land and its value; the number of lots and their value; the amount and value of notes and money; the value of mixed personal property; and the total amount of taxes due the state, county, school fund, and other levies. Provision shall be made for the sheriff to have a stub, duplicate, or other proper evidence of receipt of payment of each tax bill.

(3) Tax bills prepared in accordance with the certification of the ***Department of*** Revenue[~~ Cabinet~~] shall be delivered to the sheriff or collector by the county clerk before September 15 of each year. The clerk shall take a receipt showing the number of tax bills and the total amount of tax due each taxing district as shown upon the tax bills. The receipt shall be signed and acknowledged by the sheriff or collector before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff.

(4) Upon delivery to him of the tax bills, the sheriff or collector shall mail a notice to each taxpayer, showing the total amount of taxes due the state, county, school fund, and other levies, the date on which the taxes are due, and any discount to which the taxpayer may be entitled upon payment of the taxes prior to a designated date.

(5) All notices returned as undeliverable shall be submitted no later than the following work day to the property valuation administrator. The property valuation administrator shall correct inadequate or erroneous addresses if the information to do so is available and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the corrected notices to the sheriff or collector on a daily basis as corrections are made, but no later than fifteen (15) days after receipt. Uncorrected notices shall be submitted to the ***department***[~~cabinet~~] by the property valuation administrator.

Section 240. KRS 133.225 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall draft, and the sheriff shall mail with the property tax bills annually, an explanation of the provisions of Acts 1979 (Ex. Sess.) ch. 25.

Section 241. KRS 133.230 is amended to read as follows:

Upon receipt of a certification of omitted property by the property valuation administrator or by the ***Department of*** Revenue[~~ Cabinet~~], the county clerk shall make out for the use of the sheriff or collector a tax bill for each taxpayer who owes omitted taxes. The omitted tax bills shall be attested by the clerk in the same manner as the tax bills described in KRS 133.220. The clerk shall deliver the omitted tax bill to the sheriff or collector as soon as the omitted property has been finally assessed.

Section 242. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents ($0.30) for calculating the state, county, and school tax and preparing a tax bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the ***Department of*** Revenue[~~ Cabinet~~] for the recapitulation sheets. If found correct, the court shall allow the account, and order one-half (1/2) of it paid out of the levy and the other one-half (1/2) out

of the State Treasury. The county clerk shall certify the allowance to the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer in favor of the county clerk for the state's one-half (1/2).

(3) The above county allowance shall likewise be paid to the county clerk for calculation of the state, county, city, consolidated local government, urban-county government, school, and special district tax for each individual motor vehicle taxpayer, based upon certification from the ***Department of*** Revenue[~~ Cabinet~~] of the number of accounts as of January 1 each year.

Section 243. KRS 133.250 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall conduct sales-assessment ratio studies for each county and shall submit the ratio to each property valuation administrator by September 1 of each year or within thirty (30) days of submission of the property valuation administrator's final recapitulation to the ***department***[~~cabinet~~] as provided for in KRS 133.125, whichever date is later. Randomly selected sample appraisals shall be conducted by the ***Department of*** Revenue[~~ Cabinet~~] for each class of real property in each county no less than once every two (2) years to supplement sales data used in the assessment ratio study and to verify and enhance the statistical validity of the ratio study in determining measures of central tendency and variation.

(2) The property valuation administrator shall begin revaluation of property in his county, in preparation for the following year's property assessment, immediately following submission of the final recapitulation to the ***Department of*** Revenue[~~ Cabinet~~] as provided for in KRS 133.125.

(3) By January 30 of each year, the ***Department of*** Revenue[~~ Cabinet~~] shall cause to be published in the newspaper of largest circulation in each county, a listing of the percentage of fair cash value attainment of real property assessments as calculated by assessment ratio studies which shall be conducted by the ***Department of*** Revenue[~~ Cabinet~~].

Section 244. KRS 133.990 is amended to read as follows:

(1) The failure of any member to be in attendance promptly on the days fixed for the sessions of the county board of assessment appeals without reasonable excuse shall subject him to a fine of not exceeding twenty-five dollars ($25).

(2) Any county clerk who fails to make out, for the use of the sheriff or collector, the book or books of tax bills and stubs provided in KRS 133.220, and deliver same to the sheriff or collector on or before September 15 of each year, shall pay a penalty of ten dollars ($10) for each day's delay which must be deducted by the ***Department of*** Revenue[~~ Cabinet~~] from such sum, or sums, as may be due, or become due from the Commonwealth for official duties, and the date of the receipt required to be signed by the sheriff or collector by the provisions of KRS 133.220 shall be prima facie evidence of the delivery of same.

(3) Any county clerk who, without reasonable excuse, fails to return to the ***Department of*** Revenue[~~ Cabinet~~] copies of any books, papers, or records required by it in the manner and at the time prescribed by law, shall, upon conviction, be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each offense.

Section 245. KRS 134.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Commissioner***[~~Secretary~~]" means the ***commissioner***[~~secretary~~] of revenue.

(2) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(6) "Tax claim" includes, in addition to the taxes due on a tax bill, the penalties, costs, fees, interest, commissions, the lien provided in subsection (1) of KRS 134.420 and other such items or expenses that have become or are by reason of the delinquent tax bill proper legal charges imposed by this chapter against the delinquent taxpayer at any given time.

(7) "Uncollectible tax bill" means a tax bill of a delinquent who owns no real property and which has been returned to the fiscal court by the sheriff or collector because there is insufficient or no personal property to satisfy it, and which has been allowed and approved in the settlement with the court as uncollectible.

(8) "Sheriff" includes any collector whose duty it is to receive or collect state, county or district taxes.

Section 246. KRS 134.020 is amended to read as follows:

(1) All state, county, and district taxes, except as otherwise provided by law, shall be due and payable on September 15 following the assessment; except that all taxes in any year on unmanufactured tobacco, money in hand, or money on deposit outside this state, shall be due and payable on the second succeeding September 15 following the assessment, unless otherwise provided by law.

(2) Any taxpayer who pays his state, county, or district taxes by November 1 after they become due in any year shall be entitled to two percent (2%) discount thereon, and the sheriff shall allow the discount and give a receipt in full to the taxpayer. The sheriff may, at any time after the taxes mentioned in this section become due, receive less than the face amount of the tax bill as a credit on the amount due, including the amount of any penalties then due; and every payment shall be credited upon the tax bill or upon sheets annexed thereto for that purpose, and acknowledged in writing or by a

rubber stamp, indicating the amount so paid to the sheriff. The sheriff or any authorized collector of property taxes may accept payment of taxes due by any commercially acceptable means, including credit cards.

(3) All state, county, and district taxes, except as otherwise provided by law, shall become delinquent on January 1 following their due date.

(4) Any taxes which are not paid by the date when they become delinquent shall be subject to a penalty of ten percent (10%) on the taxes due and unpaid; except that taxes which became delinquent on January 1 shall be subject to a penalty of only five percent (5%) on the taxes due and unpaid, if paid on or before the last day of January. The sheriff shall collect the penalty and account for it as he is required to collect and account for taxes.

(5) When the tax collection schedule is delayed, through no fault of the taxpayers, the ***Department of*** Revenue[~~ Cabinet~~] may institute a revised collection schedule. The revised collection dates shall allow a two percent (2%) discount for all payments made within thirty (30) calendar days of the date the tax bills were mailed. Upon expiration of the time period to pay the tax bill with a discount, the face amount of the tax bill shall be due during the next thirty (30) days. If the time period to pay the face amount has lapsed, a five percent (5%) penalty shall be added to the tax bill for payments made during the next thirty (30) day period. Upon expiration of this time period, a ten percent (10%) penalty shall be added to all tax bills paid thereafter.

(6) If, upon expiration of the five percent (5%) penalty period, the real property tax delinquencies of the sheriff exceed fifteen percent (15%), the sheriff shall be required to make additional reasonable collection efforts. If the sheriff fails to initiate additional reasonable collection efforts within fifteen (15) business days following the expiration of the five percent (5%) penalty period, the ***commissioner***[~~secretary~~] of the ***department***[~~cabinet~~] may act in the name of and on behalf of the cities, counties, schools, and other taxing districts to collect the delinquent taxes. In the performance of any tax collection duties undertaken by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] shall have all the powers, rights, and authority for the collection of taxes established in Chapters 131, 132, 133, and 134 of the Kentucky Revised Statutes. If the ***department***[~~cabinet~~] assumes collection duties, all fees and commissions which the sheriff would have been entitled to receive from the taxing districts after the expiration of the five percent (5%) penalty period shall be paid to the ***department***[~~cabinet~~] for deposit in the delinquent tax fund as provided in KRS 134.400.

Section 247. KRS 134.040 is amended to read as follows:

If a tax is paid before the taxpayer's liability has been ascertained or before the taxpayer is notified thereof, the acceptance and deposit into the State Treasury of the remittance by the ***Department of*** Revenue[~~ Cabinet~~] shall not imply that the payment was the correct amount due, nor preclude assessment and collection of additional taxes found to be due, or refund of any part of the amount paid that may be in excess of that determined to be due.

Section 248. KRS 134.050 is amended to read as follows:

(1) Every tax imposed by law and all increases, penalties and interest thereon shall be a personal debt of the person liable for the payment thereof, from the time the tax becomes due until paid. In addition to all other remedies, the collection thereof may be enforced in the same manner as the collection of any other debt due the state. The penalty prescribed by KRS 135.060, when applicable, shall be applied to the amount of the original tax, interest and penalties.

(2) The ***Department of*** Revenue[~~ Cabinet~~] may refuse to accept a personal check as remittance in payment of taxes due or collected by any person who has ever tendered the state a check which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

Section 249. KRS 134.148 is amended to read as follows:

(1) The sheriff may, at the time he settles his accounts with the fiscal court, pursuant to KRS 134.310 provide the county clerk with a list of taxpayers whose tax bills on motor vehicles or trailers are delinquent.

(2) The county clerk may file a lien on such vehicle or trailer on behalf of the state, county, city, special district and school district and record such lien on the face of the certificate of title and registration and in the manner in which lis pendens are recorded. Delinquent tax bills shall be subject to interest at the rate of one percent (1%) per month or fraction thereof from the date the lien is filed until paid.

(3) (a) No licensed automobile dealer shall be responsible for any tax lien not recorded on the certificate of title and registration presented to the dealer by the seller at the time of the dealer's purchase of the motor vehicle or trailer.

(b) In the event that a tax lien was recorded on the clerk's copy of the certificate of title and registration, but not on the copy of the certificate of title and registration presented to the dealer by the seller at the time of the dealer's purchase of the motor vehicle or trailer, prior to the purchase of the motor vehicle or trailer by the dealer, upon presentation of proof to the county clerk that such was the case, the county clerk shall file such proof with his copy of the certificate of title and registration and shall remove the lien.

(4) In the event that a bona fide purchaser for value without notice purchases a motor vehicle or a trailer on which no lien has been filed on the certificate of title of such motor vehicle or trailer as provided for in subsection (2) of this section, such person shall not be held responsible for paying delinquent ad valorem taxes or lien fees on the certificate of title of such motor vehicle or trailer if such lien was placed on the certificate of title after same person's purchase of the motor vehicle or trailer.

(5) Upon proof being presented to the county clerk that the motor vehicle or trailer was transferred to a bona fide purchaser for

value without notice prior to the placing of a lien on a certificate of title and registration, the clerk shall file such proof with the certificate of title and registration and shall then remove the lien.

(6) The lien filing fee, as provided for in KRS 64.012, shall be added to the tax bill and be payable with the lien releasing fee by the registrant at the time of payment of the delinquent tax to the county clerk.

(7) The county clerk shall give a receipt to the registrant and make a report to the ***Department of*** Revenue[~~ Cabinet~~], the county treasurer and the other proper officials of all taxing districts that are due proceeds from the payment on the last working day of each month. He shall pay to the ***Department of*** Revenue[~~ Cabinet~~] for deposit with the State Treasurer all moneys collected by him due to the state, to the county treasurer, all moneys due to the county and to the proper officials of all other taxing districts, the amount due each district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies or parties entitled thereto.

Section 250. KRS 134.150 is amended to read as follows:

No field agent, accountant or attorney of the ***Department of*** Revenue[~~ Cabinet~~] may collect any money due the state, or any county, school or other taxing district without specific written authority from the ***commissioner***[~~secretary~~] of revenue.

Section 251. KRS 134.160 is amended to read as follows:

(1) The sheriff shall keep his office at the county seat, except in counties where he has an office already established in a city other than the county seat, in which case he shall continue his office at the place now established. The fiscal court shall provide him with a room or rooms for an office, with a vault or place of safety in which to keep the records of his office. He shall keep his office open for the collection of taxes at all reasonable times, except on Sundays and legal holidays.

(2) The sheriff shall keep an accurate account of all moneys received by him, showing the amount, the time when and the person from whom received, and on what account. He shall also keep an accurate record of all disbursements made by him, showing the amount, to whom paid, the time of payment, and on what account. He shall so arrange and keep his books that the amounts received and paid on account of separate and distinct appropriations shall be exhibited in separate and distinct accounts. He shall balance his books on the first day of each month, so as to show the correct amount on hand belonging to each fund on the day the balance is made. The books shall be paid for as other county records.

(3) The sheriff shall keep his books and accounts in the manner and form required by the ***Department of*** Revenue[~~ Cabinet~~].

(4) The books of the sheriff shall be open at all times to the inspection of the Auditor of Public Accounts, the ***Department of*** Revenue[~~ Cabinet~~], the fiscal court or any member thereof, the Commonwealth's and county attorneys, and any taxpayer or person having any interest therein.

Section 252. KRS 134.190 is amended to read as follows:

(1) A sheriff who believes, on reasonable grounds, that any person from whom a tax is due is about to conceal or remove his property from the state, county or taxing district shall immediately collect the taxes in the manner provided for the collection of taxes, costs and penalties of delinquent taxpayers.

(2) Anyone holding royalties or payments derived from property shall, if requested by the ***Department of*** Revenue[~~ Cabinet~~], sheriff, or collector, remit payment for delinquent taxes due on that property. However, the amount remitted shall not exceed the total amount being held. The delinquent tax payment may be deducted from the royalties or payments owed to the property owner. The property tax bill receipt shall be evidence of payment and authorization for deduction.

Section 253. KRS 134.215 is amended to read as follows:

(1) An outgoing sheriff, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records, and other property held by virtue of his office, and make a complete settlement of his accounts as sheriff, except as otherwise provided in this section.

(2) All unpaid tax bills and bills upon which partial payments have been accepted in the possession of the sheriff upon the date of expiration of his term shall be turned over to the incoming sheriff, who shall collect and account for them as provided by law. The outgoing sheriff shall take a receipt from the incoming sheriff for the unpaid and partially paid tax bills. This receipt shall show in detail for each unpaid and for each partially paid tax bill the total amount due each taxing district as shown upon the tax bills. Provided, however, in counties containing a population of seventy thousand (70,000) or over, the receipt shall show the total amount due each taxing district as shown upon the unpaid and partially paid tax bills. The receipt shall be signed and acknowledged by the incoming sheriff before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff. A certified copy of the receipt as recorded in the order book of the county judge/executive shall be filed with the ***Department of*** Revenue[~~ Cabinet~~]. The outgoing sheriff and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt, and the incoming sheriff shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes. If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.

(3) Each outgoing sheriff shall make a final settlement with the ***Department of*** Revenue[~~ Cabinet~~] and the fiscal court and taxing district of his county by March 15 immediately following the expiration of his term of office for all charges of taxes

made against him and for all money received by him as sheriff and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent sheriff.

(4) For purposes of accounting for unpaid and partially paid tax bills, either the outgoing sheriff, the incoming sheriff, or both, may, by giving advance notice by publication pursuant to KRS Chapter 424, refuse to accept payment of ad valorem taxes during any or all of that portion of their terms of office from January 1 through January 15. Irrespective of whether the office refuses to accept payment of taxes during any or all of this fifteen (15) day period, both the incoming and outgoing sheriffs shall have working access to the office facilities and to the records and mail of the sheriff's office relating to the payment, collection, and refund of ad valorem taxes on property. Interest shall not be assessed or collected for the period during which payment of taxes is prohibited under the terms of this section.

(5) The outgoing sheriff shall be allowed and paid in accordance with KRS 64.140 and 64.530 the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include office expenses and salaries of himself, deputies, and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining, verifying, and recording the unpaid and partially paid tax bills turned over to the incoming sheriff.

Section 254. KRS 134.240 is amended to read as follows:

The bond of the sheriff executed pursuant to KRS 134.230 shall be, in substance, as follows: "We, A B (sheriff), and C D and E F, his sureties, bind and obligate ourselves, jointly and severally, to the Commonwealth of Kentucky, that the said A B (sheriff), shall faithfully perform his duties. Witness our signature this .... of ....." The bond shall be executed in duplicate. One (1) duplicate shall be filed and recorded in the county clerk's office, and the other shall be sent to the ***Department of*** Revenue[~~ Cabinet~~] and filed in its office.

Section 255. KRS 134.270 is amended to read as follows:

Neither the sheriff nor a surety shall be liable for any act or default of the sheriff in connection with his revenue duties unless notice of the act or default of the sheriff giving rise to a claim upon the bond has been given to the surety by the ***Department of*** Revenue[~~ Cabinet~~], the county judge/executive, the county attorney, or other person asserting the claim within ninety (90) days after discovery or at the latest within one (1) year after the end of the year within which the bond was executed.

Section 256. KRS 134.280 is amended to read as follows:

(1) On the failure of the sheriff to execute bond and qualify as provided in KRS 134.230 he shall forfeit his office, and the county judge/executive may appoint a sheriff to fill the vacancy until a sheriff is elected, or it may appoint a collector for the county of all moneys due the state, county or taxing district authorized to be collected by the sheriff, or it may appoint a separate collector of all the moneys due the state, county or any taxing district thereof during the vacancy in the office of sheriff. If the county judge/executive fails for thirty (30) days to appoint a collector of money due the state, the ***Department of*** Revenue[~~ Cabinet~~] may appoint a collector thereof. These collectors shall, within ten (10) days after their appointment, execute bond as required of the sheriff, to be approved by the county judge/executive, and if the bond is not executed within that time the appointment of another collector may, in like manner, be made, but such collector shall be required to give bond for and collect only the taxes or moneys provided for in the order of the county judge/executive appointing him.

(2) A sheriff who forfeits his office under subsection (1) of this section, or who resigns his office, shall not be appointed deputy sheriff or collector for the county, or elisor, deputy collector or deputy elisor.

Section 257. KRS 134.290 is amended to read as follows:

(1) In counties where the state taxes charged to the sheriff for the year are less than seventy-five thousand dollars ($75,000), he shall be allowed by the ***Department of*** Revenue[~~ Cabinet~~], for collecting such taxes, a commission of ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter percent (4.25%) upon the residue.

(2) In counties where county taxes and special district taxes, excluding school taxes, charged to the sheriff for the year are less than one hundred fifty thousand dollars ($150,000), he shall be allowed by the county treasurer for collecting such taxes ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter percent (4.25%) upon the residue.

(3) Notwithstanding the provisions of subsection (1) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall allow the sheriff a commission for 1996 and subsequent years equal to the amount allowed the sheriff in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.

(4) Notwithstanding the provisions of subsection (2) of this section, the county treasurer shall allow the sheriff a commission for 1996 and subsequent years equal to the amount allowed the sheriff in 1995, or the amount required by the provisions of subsection (2) of this section, whichever is greater.

Section 258. KRS 134.310 is amended to read as follows:

(1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court after making settlement with the ***Department of*** Revenue[~~ Cabinet~~]. The fiscal court shall appoint some competent person other than the

Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The ***department***[~~cabinet~~], at the request of the fiscal court or any school district, may conduct the local settlement. If no local settlement has been initiated by July 1 of any year, the ***department***[~~cabinet~~] may initiate the local settlement on behalf of the local district. Upon completion of the local settlement, the ***department***[~~cabinet~~] may receive reasonable reimbursement for expenses incurred. The report of the state and local settlement shall be filed in the county clerk's office and approved by the county judge/executive no later than September 1 of each year. The settlement shall show the amount of ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published pursuant to KRS Chapter 424. The report of the settlement shall be subject to objections by the sheriff or by the county attorney, who shall represent the state and county, and the county judge/executive shall determine the objections. Objections shall be submitted to the county judge/executive within fifteen (15) days of the filing of the settlement in the clerk's office. If no objections are submitted, the settlement will become final.

(3) If the county judge/executive denies the objections, the sheriff may institute an action in Circuit Court within fifteen (15) days of receipt of the denial for review of the settlement and objections. Upon review, the Circuit Court shall issue its determination and the settlement shall become final. The final settlement shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810.

(4) On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300, and shall pay any additional amounts charged against him as a result of the settlements. If the sheriff fails to remit amounts charged against him the ***department***[~~cabinet~~] may issue bills for the subsequent year and may assume all collection duties in the name of and on behalf of the cities, counties, school districts, and other taxing districts to collect the taxes. In the performance of any tax collection duties undertaken by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] shall have all the powers, rights, and authority for the collection of taxes established in Chapters 131, 132, 133, and 134 of the Kentucky Revised Statutes. The fees and commissions which the sheriff would have been entitled to receive from the taxing districts shall be paid to the ***department***[~~cabinet~~].

(5) In counties containing a population of less than seventy thousand (70,000), the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(6) At the time he files the statements required by subsection (5) of this section, the sheriff shall pay to the fiscal court any fees, commissions, and other income of his office, including income from investments, which exceed the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830.

(7) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.

Section 259. KRS 134.320 is amended to read as follows:

(1) The sheriff shall, by the tenth day of each month, or more often as may be required by the ***Department of*** Revenue[~~ Cabinet~~] to prevent the sheriff from having funds in his possession in excess of the amount of his bond, report under oath to the ***department***[~~cabinet~~] the amount of all state taxes he has collected during the preceding month, or for such period as the ***department***[~~cabinet~~] may require.

(2) The sheriff shall, at the time of making this report, pay to the ***department***[~~cabinet~~], for deposit with the State Treasurer, all taxes he has collected for the state for the preceding month or period.

(3) The ***department***[~~cabinet~~] may report to the grand jury of Franklin County any sheriff failing to report as required. Any sheriff failing to pay over any taxes collected by him and due the state, as provided by law, shall be required by the ***department***[~~cabinet~~] to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof plus interest at the legal rate per annum on such taxes. The ***department***[~~cabinet~~] in its settlement with the sheriff shall charge him with such penalties and interest.

(4) The ***Department of*** Revenue[~~ Cabinet~~] may grant an extension of time, not to exceed fifteen (15) days, for filing the report required by subsection (1) whenever, in its judgment, good cause therefor exists. The extension shall be in writing, and the ***department***[~~cabinet~~] shall keep a record of such extensions. The extension when granted shall suspend the penalty and interest provided by subsection (3) for the duration of the extension. The penalty and interest shall apply at the expiration of the extension.

Section 260. KRS 134.325 is amended to read as follows:

Each sheriff shall conduct the sale of delinquent tax bills required by KRS 134.430 and make his records available for settlement with the ***Department of*** Revenue[~~ Cabinet~~] for all taxes collected for the Commonwealth before April 30 of each year during his term of office. In the event that any sheriff resigns, dies, or otherwise vacates his office, the books and records shall be made available within thirty (30) days from the date that the office is vacated. Any sheriff who fails to make the settlement books and records available or fails to remit any amounts which are due to the taxing districts as required by law shall be subject to indictment in the county of his residence and fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000).

Section 261. KRS 134.330 is amended to read as follows:

(1) No tax bill or tax book shall be delivered to the sheriff during the second or any subsequent calendar year of the sheriff's regular term until he exhibits a quietus from the ***Department of*** Revenue[~~ Cabinet~~] and from the fiscal court of his county for the preceding tax period and his revenue bond, if bonding is required by the fiscal court, for the next tax year.

(2) If the tax records of a county are destroyed by fire, lost, stolen, or mutilated so as to require reassessment of the property in the county or a recertification of the tax bills, the sheriff shall have five (5) months from the time he receives the recertified tax bills within which to make settlement with the ***department***[~~cabinet~~] and the fiscal court, and to receive his quietus from the ***department***[~~cabinet~~] and the fiscal court.

Section 262. KRS 134.340 is amended to read as follows:

(1) The sheriff shall, when he collects money from a delinquent taxpayer, record the tax, interest and penalty on his record book kept for that purpose.

(2) If the sheriff fails to record the money collected from a delinquent taxpayer, or fails to collect the tax due from a delinquent taxpayer if it was collectible by sale or otherwise when it came to his hands, he shall be held liable on his bond for the amount of tax, penalties, interest and costs due from the delinquent taxpayer that was collectible, plus thirty percent (30%) penalty thereon, to be recovered in the Circuit Court of the county in which the tax is due, on motion of the county attorney or agent of the ***Department of*** Revenue[~~ Cabinet~~] in the name of the state. The county attorney shall prosecute all such motions, for which services he shall be entitled to the penalties thereon recovered of the sheriff, but only if the tax, interest, costs, and penalties due are recovered and paid to the officers entitled to receive the same. The sheriff shall have ten (10) days' previous notice of the motion.

Section 263. KRS 134.360 is amended to read as follows:

In making his settlements with the fiscal court and the ***Department of*** Revenue[~~ Cabinet~~], the sheriff shall file a list of uncollectible delinquent taxes, which shall entitle the sheriff to a credit in his official settlement. The sheriff shall also be allowed credit in his official settlement for the tax bills on which certificates of delinquency have properly been issued to the state, county, and taxing districts.

Section 264. KRS 134.380 is amended to read as follows:

(1) The ***commissioner***[~~secretary~~] may act in the name of and in behalf of the state and in the name of and in behalf of any and all counties, consolidated local government, school, and other taxing districts in the state to institute and prosecute any action or proceeding for the collection of delinquent taxes and the assessment of omitted property. If the ***department***[~~cabinet~~] assumes the duties of collecting the delinquent taxes assessed under the authority of KRS Chapter 132, it shall have all the powers, rights, duties, and authority conferred generally upon the ***department***[~~cabinet~~] by the Kentucky Revised Statutes, including but not limited to Chapters 131, 134, and 135.

(2) Field agents, accountants, and attorneys of the ***department***[~~cabinet~~] shall prosecute all actions and proceedings under the direction of the ***commissioner***[~~secretary~~]. Field agents, accountants, attorneys, and all other employees of the ***department***[~~cabinet~~] engaged in the prosecution of the actions shall not be hired by personal service contract. The ***commissioner***[~~secretary~~] shall prosecute diligently, or cause to be prosecuted by field agents, accountants, and attorneys employed by him, the collection of all delinquent taxes due the state.

(3) Nothing contained in this chapter shall prevent the ***commissioner***[~~secretary~~] of revenue from assessing any property in accordance with the provisions of KRS 136.020, 136.030, 136.050, or 136.120 to 136.180.

(4) The ***department***[~~cabinet~~] may require the use of any reports, forms, or databases necessary to administer the law in connection with the collection of delinquent taxes. The ***department***[~~cabinet~~] shall require an index to be kept of all certificates of delinquency.

Section 265. KRS 134.385 is amended to read as follows:

The ***department***[~~cabinet~~] shall conduct a special audit to determine the presence or absence of chronic underassessment in any county for which the sales-assessment ratio studies conducted under the provisions of KRS 133.250 indicates a ratio below eighty percent (80%) for two (2) consecutive calendar years. The audit may be conducted through the use of randomly-selected sample appraisals or other means reasonably calculated to present an accurate determination of assessment practices in the county.

Section 266. KRS 134.390 is amended to read as follows:

A tax bill rendered against omitted property required to be listed with the property valuation administrator or the ***Department of*** Revenue[~~ Cabinet~~] or against an increase in valuation over that claimed by the taxpayer, as finally determined upon appeal as provided for in KRS 133.120, shall become due on the day the bill is prepared, and shall be considered delinquent and subject to a penalty of ten percent (10%) of the tax, penalty and interest due, unless paid within thirty (30) days after it becomes due, except as otherwise provided by law. All provisions of law of the particular taxing district having an interest therein relating to delinquent taxes on the same class of property or taxpayers involved shall apply to the delinquent omitted tax bill unless otherwise provided by law.

Section 267. KRS 134.400 is amended to read as follows:

(1) All penalties imposed by law, either in whole or in part, in favor of or for the benefit of agents of the ***Department of*** Revenue[~~ Cabinet~~], sheriffs, and other state, county, or district agents or officers, upon or for the recovery of taxes or the assessment of omitted property, shall be paid into the State Treasury and credited as provided for the twenty percent (20%) penalty in subsection (2) of this section.

(2) The twenty percent (20%) penalty collected on taxes due the state, county, school, or other taxing district shall be paid into the State Treasury. One-fourth (1/4) of the moneys thus received shall be credited to the general expenditure fund. The remaining three-fourths (3/4) shall also be credited to the general expenditure fund unless the General Assembly, in its biennial branch budget bill, provides that it be credited to a fund to be designated and known as the delinquent tax fund, in which case it shall be so credited and so much thereof as may be necessary shall be used for the administration and enforcement of the laws relating to the collection of delinquent taxes and the assessment of omitted property. All salaries, fees, and expenses authorized by the laws relating to the collection of delinquent taxes and the assessment of omitted property, except the fees of county attorneys, shall be payable out of the delinquent tax fund upon certifications or requisitions of the ***commissioner***[~~secretary~~] of revenue.

Section 268. KRS 134.410 is amended to read as follows:

Should any life insurance company, casualty company, marine insurance, fire insurance, security or indemnity company be in debt to the state for back taxes, or should any of such companies fail to pay into the State Treasury the correct amount of taxes due the state, the ***commissioner***[~~secretary~~] of revenue shall cause an investigation to be made of their books and accounts, and employ such expert accountants as he may deem necessary for such work. The granting of power to the ***commissioner***[~~secretary~~] to investigate the books and accounts of those engaged in the business of insurance for the purposes set forth in this section shall not be construed as a denial of power to the ***commissioner***[~~secretary~~] to investigate for the same purposes the books and accounts of individuals or corporations engaged in other types of business, who have failed to pay into the State Treasury the correct amount of tax due the state.

Section 269. KRS 134.420 is amended to read as follows:

(1) The state and each county, city, or other taxing district shall have a lien on the property assessed for taxes due them respectively for ten (10) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation, or any means except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering the taxes. The lien shall include all interest, penalties, fees, commissions, charges, costs, reasonable attorney fees, and other expenses incurred by reason of delinquency in payment of the tax bill or certificate of delinquency or in the process of collecting either, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county, or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated. Every city of the third, fourth, fifth, and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens.

(2) If any person liable to pay any tax administered by the ***Department of*** Revenue[~~ Cabinet~~], other than a tax subject to the provisions of subsection (1) of this section, neglects or refuses to pay the tax after demand, the tax due together with all penalties, interest, and other costs applicable provided by law shall be a lien in favor of the Commonwealth of Kentucky. The lien shall attach to all property and rights to property owned or subsequently acquired by the person neglecting or refusing to pay the tax.

(3) The lien imposed by subsection (2) of this section shall remain in force for ten (10) years from the date the notice of tax lien has been filed by the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~], or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or any county in which the taxpayer has an interest in property.

(4) The tax lien imposed by subsection (2) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of the tax lien has been filed by the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The recording of the tax lien shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the ***Department of*** Revenue[~~ Cabinet~~] shall disclose the specific amount of liability at a given date to any interested party legally entitled to the information.

(5) Even though notice of a tax lien has been filed as provided by subsection (4) of this section, and notwithstanding the provisions of KRS 382.520, the tax lien imposed by subsection (2) of this section shall not be valid with respect to a

security interest which came into existence after tax lien filing by reason of disbursements made within forty-five (45) days after the date of tax lien filing or the date the person making the disbursements had actual notice or knowledge of tax lien filing, whichever is earlier, provided the security interest:

(a) Is in property which:

1. At the time of tax lien filing is subject to the tax lien imposed by subsection (2) of this section; and

2. Is covered by the terms of a written agreement entered into before tax lien filing; and

(b) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

Section 270. KRS 134.430 is amended to read as follows:

(1) All personal property owned by a delinquent taxpayer shall be subject to distraint, and all property owned by him shall be subject to levy and sale by the proper collecting officer at any time from February 1 after the tax claim becomes delinquent until the tax claim is barred by limitations, unless otherwise provided by law.

(2) When any taxpayer becomes delinquent in the payment of a tax bill covering any property assessed by the property valuation administrator, the county board of assessment appeals, the ***department***[~~cabinet~~], or any omitted property irrespective of by whom assessed, the sheriff may distrain a sufficient quantity of the delinquent's personal property in the county to pay the tax claim, and a necessary part of this property shall be sold as under execution for cash. Neglect on the part of the sheriff to distrain and sell personal property shall not affect the validity of the sale of the tax claim, or the lien or the rights of any purchaser. If personal property sufficient to satisfy the tax claim cannot be found in the county, the sheriff may sell so much of the personal property as is found and enter proper credit on the tax bill.

(3) As compensation for services, the sheriff shall be entitled to an additional ten percent (10%) of that part of the tax claim represented by the total taxes plus ten percent (10%) penalty, for all delinquent taxes collected from the time the ten percent (10%) penalty becomes applicable through the sale of the tax claims. This fee shall be added to the total amount due and paid by the person paying the delinquent tax bill.

(4) If no personal property is found, or the amount found is insufficient, the sheriff shall, no later than the first full week in April, advertise for sale the tax claims of the state, county, and other taxing districts, if there is any real property subject to the lien provided in subsection (1) of KRS 134.420. The sheriff shall receive offers for the purchase of tax claims up to fifteen (15) business days following the date of the initial advertisement or no later than April 30, or the last business day prior to April 30, if April 30 falls on a weekend or holiday.

(5) No sheriff shall knowingly sell a tax claim on the same tract of land more than once for the same tax.

Section 271. KRS 134.450 is amended to read as follows:

(1) The sheriff shall sell all tax claims for which payment by the delinquent taxpayer has not been made by the closing date for the acceptance by the sheriff of offers to purchase delinquent tax claims. If there is more than one (1) willing purchaser who has made an offer, the one having made the most recent purchase of a tax claim against the same delinquent or the same property shall have preference; if there is no such person, the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim shall receive priority for the purchase of the tax claim. If the total of all offers to purchase exceeds ten percent (10%) of the total dollar amount of the delinquent bills offered for sale, or the sum of two hundred thousand dollars ($200,000), whichever is less, the sheriff shall notify the Finance and Administration Cabinet of the offers of purchase within five (5) business days of the closing date when the offers were received. Upon receipt of the notice, the Finance and Administration Cabinet shall purchase the delinquent tax bills upon which the sheriff has received an offer of purchase and shall tender payment to the sheriff within fifteen (15) business days of the receipt of the sheriff's notice. Upon purchase of the tax claims, the state shall be the owner of the tax bills and may contract with the county attorney to collect all amounts due on its behalf under the terms and conditions of the county attorney's contract with the ***Department of*** Revenue[~~ Cabinet~~] to collect delinquent taxes. If the county attorney has not contracted with the ***Department of*** Revenue[~~ Cabinet~~] to collect delinquent taxes, the ***Department of*** Revenue[~~ Cabinet~~] shall collect all amounts due on behalf of the Finance and Administration Cabinet. If the Finance and Administration Cabinet does not purchase all of the delinquent tax bills, within fifteen (15) days of the closing date, the sheriff shall complete the sale of those tax claims for which the sheriff has received responsible offers to purchase. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~], and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

(2) If no responsible offer in the amount of the tax claim is received, the sheriff shall purchase it for the state, county, and taxing districts having an interest in the tax claim. In such case, the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one other than the state, county, or taxing district is the purchaser.

(3) The sheriff shall file all certificates of delinquency in the county clerk's office immediately upon completion of the tax sale, or in a county containing a city of the first class or consolidated local government, within fourteen (14) working days of the sale, and the clerk shall retain them. The county clerk shall acknowledge receipt of the certificates by signing a receipt form that has been prepared in a manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. If the sheriff fails to file the

certificates, he shall be liable on his official bond for the aggregate amount of the certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original.

(4) The clerk shall make, execute, and deliver a certified copy of a certificate of delinquency to the payor, or the clerk may provide for a certified electronic register of the certificates of delinquency in the clerk's record in lieu of delivering a certified copy of the certificate of delinquency.

(5) The certificate of delinquency is assignable by endorsement. The clerk shall note the assignment on the certificate of delinquency or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. An assignment when noted on the record in the office of the county clerk vests in the assignee all rights and title of the original purchaser.

Section 272. KRS 134.480 is amended to read as follows:

(1) The delinquent taxpayer or any person owning or having a legal or equitable interest in real property covered by a certificate of delinquency may at any time pay the total amount of the certificate to any purchaser thereof, and any person whatsoever may likewise pay a certificate of delinquency when the state, county, or taxing district was the purchaser. When a certificate is paid to an owner other than the state, county, or taxing district, the assignee shall mark paid in full on the certified copy of the certificate and shall surrender the certified copy of the certificate of delinquency to the person making payment, and if he is the person primarily liable on the certificate he may file it with the county clerk and have the certificate released of record. When a certificate of delinquency has been fully paid to the state, county, and taxing districts, the clerk shall note the name and address of the person making the payment, the amount paid by him, and such other information as the ***Department of*** Revenue[~~Cabinet~~] may require. The clerk shall mark the certificate of delinquency paid in full. Payment in such instance by one other than the person primarily liable on the certificate will amount to an assignment thereof. The clerk shall note the assignment on the certificate of delinquency and provide the assignee a certified copy of the certificate of delinquency, or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. Anyone other than the person primarily liable who pays a certificate or purchases it from an owner other than the state, county, and taxing district may, by paying a fee of fifty cents ($0.50), have the clerk record the payment or purchase and such recordation shall constitute an assignment thereof. Failure to obtain such an assignment shall render the claim of such payor or purchaser to any real estate represented thereby inferior to rights of other bona fide purchasers, payors, or creditors. Any owner of a certificate of delinquency once having paid the assignment fee may have a change of his address noted of record by the clerk without paying an additional charge, otherwise he shall pay a fee of fifty cents ($0.50) to the clerk for entering such change on the certificate.

(2) The county clerk may receive payment of the amount due on certificates of delinquency owned by the state, county, and taxing districts, and he shall give a receipt to the payor and make a report to the ***Department of*** Revenue[~~Cabinet~~], the county treasurer, and the proper officials of the taxing districts as often as such units may require, and not less than once in every thirty (30) days. The clerk may accept payment of taxes due by any commercially acceptable means, including credit cards. He shall pay to the ***Department of*** Revenue[~~Cabinet~~] for deposit with the State Treasurer all moneys collected by him due the state, to the county treasurer all moneys due the county, and to the authorized officers of the taxing districts the amount due each such district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies, or parties entitled thereto. He shall retain ten percent (10%) of the amount due each taxing unit for his services as a fee. This fee shall be added to the amount of the tax claim and paid by the persons paying the tax claim.

(3) If the person entitled to pay a certificate of delinquency sends a registered letter addressed to the owner of record of the certificate, other than the state, county, or taxing district, and the letter is returned by mail unclaimed, the sender thereof may make payment to the county clerk, who shall make the necessary assignment or release and deposit the money to the account of the owner of record in the nearest bank having its deposits insured with the Federal Deposit Insurance Corporation. The clerk may deduct the sum of fifty cents ($0.50) as a fee for such service. The name of the bank in which the money is deposited shall be noted on the certificate.

(4) If any clerk fails to pay to the person entitled thereto, upon demand, the money received in payment of a certificate of delinquency, he and his sureties shall be liable for the same and twenty percent (20%) interest thereon annually from the time he received it until paid.

(5) Copies of the records provided for in KRS 134.450 and this section, certified by the county clerk, shall be evidence of the facts stated in them in all the courts of this state.

Section 273. KRS 134.500 is amended to read as follows:

(1) (a) Certificates of delinquency shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The five dollar ($5) sheriff's fee, the advertising costs provided in KRS 134.420, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be included in the interest calculation in counties containing cities of the first class or consolidated local government and shall be excluded in other counties, except upon adoption of an ordinance by a county to include in the interest calculation the fees provided for in KRS 134.420, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this

section. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he or she makes the next regular settlement.

(b) A certificate of delinquency shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The total amount of the certificate of delinquency, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be included in the base for the interest calculation. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) The ***department***[~~cabinet~~] shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the ***department***[~~cabinet~~] shall first offer the collection duties to the county attorney, unless the ***department***[~~cabinet~~] determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the ***department***[~~cabinet~~] on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the ***Department of*** Revenue[~~ Cabinet~~] shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the ***department***[~~cabinet~~] shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the ***department***[~~cabinet~~] may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the ***department***[~~cabinet~~] and performs his or her duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. This fee shall be waived if the certificate of delinquency is paid by the taxpayer only within five (5) days of the sheriff's sale. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the ***department***[~~cabinet~~] shall assume responsibility for the collection process. In the performance of those duties, the ***department***[~~cabinet~~] shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the

department[~~cabinet~~] by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the ***department***[~~cabinet~~] for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the ***commissioner***[~~secretary~~], and the petition may be sent to the ***department***[~~cabinet~~], which may require revision in instances where it deems revision or amendment necessary. The ***department***[~~cabinet~~] shall advise the county attorney in all actions, and may send him or her special assistance when the ***commissioner***[~~secretary~~] deems assistance necessary. A copy of the judgment shall also be sent to the ***department***[~~cabinet~~]. If the ***department***[~~cabinet~~] sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his or her full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The ***department***[~~cabinet~~] may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the ***department***[~~cabinet~~] to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the ***department***[~~cabinet~~].

(8) The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.

Section 274. KRS 134.505 is amended to read as follows:

Any person while serving as county attorney who was required by law by reason of his office to prosecute an action or to assist the ***commissioner***[~~secretary~~] of revenue in prosecuting an action to enforce a claim of the state, county, school district and any other taxing district to any land which was purchased by such districts at a sheriff's sale or sales for delinquent taxes and who did not institute such action before he relinquished his office or otherwise failed to perform substantially all the duties of his office relative to the claim, shall not be entitled to receive any commission or compensation for any such sale or sales when the redemption costs are paid. Any county clerk or other person authorized to collect funds to satisfy unredeemed land sales shall be liable for any such money distributed as a commission to any former county attorney who is not entitled to it.

Section 275. KRS 134.510 is amended to read as follows:

(1) After the state, county and taxing districts obtain real property as authorized by KRS 134.490, the designated agent of the ***commissioner***[~~secretary~~] of revenue may advertise and sell at public sale any of the lands, and the ***commissioner***[~~secretary~~] may convey the lands by deed to the purchaser. The ***commissioner***[~~secretary~~] shall, within thirty (30) days from receipt of payment, pay to the county and taxing district the amount of the proceeds due each. The ***Department of*** Revenue[~~ Cabinet~~] shall be entitled to an administration fee equal to fifteen percent (15%) of the sale price of the property, which shall be paid into the delinquent tax fund provided for in KRS 134.400.

(2) The sales shall be advertised by a written or printed notice posted at the courthouse door for fifteen (15) days before the date of sale, and by publication pursuant to KRS Chapter 424, and may in addition be advertised by printed handbills posted for fifteen (15) days before the date of sale in three (3) or more conspicuous places in the taxing districts.

(3) Any real property acquired by the state, county and taxing districts pursuant to KRS 134.490 may be redeemed at any time before the ***commissioner***[~~secretary~~] gives a deed to a purchaser, by paying to the county clerk the amount due at the time the property was acquired, plus subsequent costs and interest at the rate of twelve percent (12%) per annum.

Section 276. KRS 134.540 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] has reason to believe that any sale made under the authority of Section 32 of Article VIII of Chapter 22 of the Acts of 1906, or Section 3 of Chapter 43 of the Acts of 1908, or Section 2 or 5 of Chapter 21 of the Acts of the first Extraordinary Session of 1938, is for any reason invalid, the invalidity may be alleged in an action to establish the lien provided for in Chapter 152 of the Acts of 1934. The action shall be brought on the relation of the ***commissioner***[~~secretary~~] of revenue, who shall publish notice on the courthouse door for fourteen (14) days before instituting the action, notifying all delinquents that actions will be instituted unless the delinquent taxes against land subject to such actions are paid at once. If the owner does not redeem the land within ten (10) days after the expiration of the fourteen (14) day period, and the ***commissioner***[~~secretary~~] is required to institute action, the state shall be entitled to a fee equal to fifteen percent (15%) of the amount of the taxes, penalties and interest, which shall be paid into the delinquent tax fund provided under KRS 134.400, to be used by the ***Department of*** Revenue[~~ Cabinet~~] to cover the expenses of filing and administering such actions. If the property is redeemed after action is instituted, the fee shall become a part of the redemption price. The ***commissioner***[~~secretary~~] may, if he deems necessary, institute action without giving the notice provided in this section, in which event the fifteen percent (15%) fee shall not apply.

(2) The county attorney shall assist the ***Department of*** Revenue[~~ Cabinet~~] in filing and prosecuting the actions. For these services he shall be entitled to twenty percent (20%) of the taxes, penalties and interest. If he fails or refuses to assist in filing and prosecuting the actions, he shall not be entitled to this fee.

(3) An action shall not be instituted on behalf of the state to establish the lien provided for in Chapter 152 of the Acts of 1934

until after the expiration of the time that must expire before action to recover possession can be instituted.

Section 277. KRS 134.580 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Agency" means the agency of state government which administers the tax to be refunded or credited.

(b) "Overpayment" or "payment where no tax was due" means the tax liability under the terms of the applicable statute without reference to the constitutionality of the statute.

(2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds or credits, to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky Board of Tax Appeals or courts may direct.

(3) Refunds or credits shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(4) Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the ***department***[~~cabinet~~], the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund or credit to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund or credit would be greater than the amount that should be refunded or credited.

(5) This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.

(6) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

Section 278. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the ***Department of*** Revenue[~~ Cabinet~~], for collecting state ad valorem taxes on motor vehicles, a commission of four percent (4%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer, for collecting county and special district ad valorem taxes on motor vehicles, a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) (a) For the convenience and benefit of the Commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner, as defined in KRS 186.010(7)(a) and (c), of each motor vehicle no later than forty-five (45) days prior to the ad valorem tax and registration renewal due date in each calendar year.

(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner as of January 1 of that year.

(c) When ad valorem taxes on a vehicle become delinquent for sixty (60) days, as defined by KRS 134.810, a second notice shall be sent within ten (10) working days to the January 1 owner of record. The notice shall inform the delinquent owner of the lien provisions provided by KRS 134.810 on all vehicles owned or acquired by the owner of the vehicle at the time the tax liability arose.

(d) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Nonreceipt of the notices required herein shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery.

Section 279. KRS 134.815 is amended to read as follows:

(1) The county clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county government, school, and special taxing districts all ad valorem taxes on motor vehicles collected by him for the preceding month, less the collection fee of the county clerk, which shall be deducted before payment to the depository. The county clerk shall be required to deposit state collections in a manner consistent with procedures established by the ***department***[~~cabinet~~] for the prompt payment to the state of other state tax moneys collected by the county clerk.

(2) Any county clerk who fails to pay over any taxes collected by him on motor vehicles as required by subsection (1) of this

section shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the legal rate per annum of such taxes.

(3) The county clerk may be granted an extension, not to exceed fifteen (15) days, for filing the monthly report to each district required by this section.

(4) In the event a motor vehicle is registered in a county other than that in which the vehicle had a taxable situs as of the most recent assessment date, the county clerk in the new county of registration shall be charged with collecting the ad valorem taxes due for the state, county, city, urban-county government, school and special tax districts in which the vehicle had situs. The county clerk making such collections shall receive commissions on collections as set out for other collections on motor vehicles.

(5) All moneys collected under this section by a county clerk on motor vehicles which had a taxable situs in another county shall be reported and deposited with the state, after he has deducted the appropriate commissions due from these collections, and such collections shall be distributed to the proper tax district.

(6) The ***department***[~~cabinet~~] shall provide procedures governing receipt and disbursement of all moneys collected under subsections (4) and (5) of this section.

Section 280. KRS 134.825 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall be responsible for payment of all expenses related to the development and implementation of computer and administrative systems necessary to carry out the provisions of KRS 134.805, 134.810 and 186A.145 and, further, shall reimburse each state agency involved for all ongoing operational costs, including the calculation, preparation, and mailing of notices of ad valorem property tax due on motor vehicles, incurred by each such agency in administering the provisions of KRS 134.805, 134.810 and 186A.145.

Section 281. KRS 134.990 is amended to read as follows:

(1) Any sheriff who violates subsection (2) of KRS 134.140 shall be fined one hundred dollars ($100) for each offense.

(2) Any person who violates the provisions of KRS 134.150 shall, upon indictment and conviction in the county in which the act was done, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be removed from office.

(3) Any sheriff who violates subsection (3) of KRS 134.170 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(4) Any sheriff who violates subsection (2) of KRS 134.200 shall be fined not less than five hundred dollars ($500) for each offense.

(5) Any outgoing sheriff who fails for ten (10) days to comply with the provisions of KRS 134.215 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), and be liable on his bond for any default.

(6) Any sheriff who fails to report as required in KRS 134.300 shall be liable to indictment in the county of his residence, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(7) Any sheriff who fails to report as provided in KRS 134.320 shall be liable to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Any person who willfully fails to comply with any rule or regulation promulgated under subsection (4) of KRS 134.380 shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(9) Any sheriff who violates subsection (5) of KRS 134.430 shall be fined one hundred dollars ($100) and be liable on his official bond for the damages sustained by any person aggrieved.

(10) Any county attorney who fails to prepare, and any sheriff who fails to serve, the notice provided for in subsection (2) of KRS 134.500 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(11) Any sheriff who intentionally fails to keep his books in an intelligible manner and according to the form prescribed by the ***Department of*** Revenue[~~ Cabinet~~], or to make the entries required by law, shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) for each offense.

(12) Any person who fails to do an act required, or does an act forbidden, by any provision of this chapter for which no other penalty is provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

Section 282. KRS 135.040 is amended to read as follows:

(1) On the return of "no property found" on an execution issued upon a judgment in favor of the state, the ***Department of*** Revenue[~~ Cabinet~~] may institute equitable proceedings in the Franklin Circuit Court or any other court of competent jurisdiction, in the name of the state and on the relation of the ***commissioner***[~~secretary~~] of revenue. The choses in action or other equitable estate of the delinquent shall be subjected to the payment of the amount due on any such execution.

(2) On the return to the fiscal court of any tax bill as uncollectible, a like suit may be instituted in the name of the state on the relation of the ***commissioner***[~~secretary~~] of revenue in any court of competent jurisdiction, and the choses in action or other equitable estate of the delinquent may be subjected to the amount due on any such tax bill. In such proceedings attachment may issue and other proceedings may be taken as are authorized on the return of "no property found" on an execution in

favor of individuals.

(3) The county attorneys of the respective counties shall assist the ***Department of*** Revenue[~~ Cabinet~~] in prosecuting the actions mentioned in this section.

(4) No action shall be maintained under the provisions of subsection (1) of this section when the last execution issued has been returned "no property found" more than ten (10) years before the institution of the action, nor shall an action be maintained on the uncollectible tax bill under the provisions of subsection (2) of this section more than five (5) years after the date of the return by the sheriff or collector.

(5) Every person against whom an execution has been returned "no property found" and upon which an equitable action is instituted, as provided in subsection (1) of this section, shall be liable for a penalty of twenty percent (20%) of the amount due on the execution. The penalty may be recovered in the action, with the amount due on the execution. The penalty shall go to the delinquent tax fund provided for under KRS 134.400, unless the county attorney assists in the prosecution, in which case one-half (1/2) shall go to him.

Section 283. KRS 135.050 is amended to read as follows:

(1) The ***commissioner***[~~secretary~~] of revenue shall prosecute diligently the collection of all license fees, omitted license, inheritance, estate, income, excise or franchise taxes, judgments or other moneys, claims or demands due the state from any person.

(2) The ***Department of*** Revenue[~~ Cabinet~~] may institute legal proceedings to ascertain the amount of tax due under any statute imposing a license, excise or income tax in favor of the state, and to enforce the collection of the amount due and the penalties and interest thereon, and, in the case of a license or excise tax, to enjoin the operation of the business of the delinquent until the tax is paid.

(3) The ***Department of*** Revenue[~~ Cabinet~~] may, at or after the commencement of an action under subsection (2) of this section to collect the amount of license, excise or income tax due and the penalties and interest thereon, have an attachment against the property of the person liable for the tax or a garnishment of his debtors, without the execution of a bond.

Section 284. KRS 135.060 is amended to read as follows:

(1) Employees of the ***Department of*** Revenue[~~ Cabinet~~] shall, when directed by the ***commissioner***[~~secretary~~], institute actions in the name of the state, and in the name of any county, school or other taxing district, on relation of the ***commissioner***[~~secretary~~], against any delinquent state, county or district officer or any person to recover taxes or any other money due the state or any county, school or other taxing district.

(2) Employees of the ***Department of*** Revenue[~~ Cabinet~~] before instituting or causing to be instituted any action that the ***commissioner***[~~secretary~~] is authorized by law to institute, shall file a copy of same with the ***commissioner***[~~secretary~~], with a verified statement of the facts upon which it is based. No action shall be instituted or caused to be instituted by an employee until it is approved and authorized by the ***commissioner***[~~secretary~~].

(3) In all actions brought under subsection (1) of this section in which a judgment is recovered, the party in default shall, in addition to the amount found to be due the state or any county, school or other taxing district, be adjudged to pay a penalty of twenty percent (20%) on the amount due.

Section 285. KRS 135.080 is amended to read as follows:

(1) When an action is brought in the Franklin Circuit Court against a sheriff or clerk, or against the sureties on his official bond, or against his heirs, devisees or representatives, or against any other person required to pay money into the State Treasury or to do any other act required by law to be done in connection with the payment of money into the State Treasury after it has been collected, the ***Department of*** Revenue[~~ Cabinet~~] shall, twenty (20) days before the trial, mail to the defendant in the action, directed to him at the courthouse of his county, a notice in writing stating the amount judgment will be asked for and the time the court will be held. The ***department***[~~cabinet~~] shall file a copy of this notice, with the name of the person to whom sent and the time when and the place where sent, with the clerk of the court, to be filed by him and kept with the papers in the action.

(2) The court, without further notice to the parties, shall proceed with the action. The ***department***[~~cabinet~~] shall file with the clerk of the court a memorandum of the names of the parties, the amount due from each defaulter against whom judgment is demanded, and a copy of the bond if any. The clerk shall docket the action in the order in which the names stand on the memorandum.

(3) Judgments, when given against the defendants in the cases referred to in this section, shall be for the principal due with interest at the rate of ten percent (10%) per annum from the time the amount was due until paid.

Section 286. KRS 135.090 is amended to read as follows:

If any of the defendants in an action brought under KRS 135.080 shall, upon oath, deny the execution of the bonds or instruments whereby they are sought to be made liable, a jury, if required, shall be impaneled to try the facts. All other facts may be tried by the court. Nothing but a receipt from the State Treasurer for the payment of the taxes or money claimed shall be admitted on the trial, except orders of the court and receipts in pursuance thereof, the records of the ***Department of*** Revenue[~~ Cabinet~~] and the State Treasurer, and the delinquent list. No tender of payment nor any offset shall be pleaded or given in evidence.

Section 287. KRS 135.100 is amended to read as follows:

(1) Judgments in the name of the state or county against sheriffs and other public collectors, their sureties, or their heirs, devisees or personal representatives, or any of them, shall bind the estate, legal or equitable, of all of the defendants to the judgments from the commencement of the action until satisfied. No execution thereon shall be stayed by replevin or sale on credit, but in all such cases the estate taken in execution shall be sold for money, except that the ***Department of*** Revenue[~~ Cabinet~~] may, with the consent of the Attorney General, indorse the right to replevy on the execution where the tax is payable to the ***department***[~~cabinet~~], and a like privilege is given to the sheriff, with the consent of the county attorney, when the taxes are payable to the sheriff.

(2) Any officer who makes a false return on such execution shall be subjected to the payment of the whole amount of the execution and costs, in addition to the penalty provided by subsection (3) of KRS 135.990.

(3) No person shall attempt, by any fraudulent execution, conveyance, encumbrance or otherwise, to stop or injure the sale of the estate under the execution.

Section 288. KRS 135.120 is amended to read as follows:

When the property of the defendant in execution, upon a judgment against a defaulting public officer, is encumbered by a previous bona fide mortgage, deed of trust or other encumbrance or prior lien, the officer shall, if no other property is found upon which to levy the execution, levy it upon the encumbered property and return the same. He shall make return of all the facts known to him, giving the date and consideration of the instrument creating the lien, to whom made, when recorded, the evidences of any prior lien, and the names of the parties who claim the same. Proceedings may be instituted by the sheriff or the ***Department of*** Revenue[~~ Cabinet~~], in the name of the state, in the county where the property is located, to have the property sold, the claims and demands, if just, satisfied, all encumbrances removed, and the proceeds of the sale of the property rightfully applied.

Section 289. KRS 135.130 is amended to read as follows:

(1) If return is made on an execution against a sheriff or other public defaulter to the state and his sureties that there was no sale of personal property for the want of bidders, the ***Department of*** Revenue[~~ Cabinet~~] may direct the property levied upon to be removed from county to county for sale, as often as may be necessary, the cost of removal to be paid out of the sale of the estate as other costs. The officer who levied the execution may sell the property in any county to which it is so removed. If real property is levied upon, the place of sale may be changed to another county, and the officer may there sell and convey the property as in the county where the levy was made.

(2) The state may have executions in the hands of collecting officers in any number of counties at the same time.

Section 290. KRS 136.030 is amended to read as follows:

(1) Every corporation organized under the laws of this state, or doing business in this state, and domestic life insurance companies, shall by February 15, of each year make a true and correct report to the ***Department of*** Revenue[~~ Cabinet~~] signed by its president, secretary, treasurer, or other chief officer, giving the names and addresses of residents of this state who hold its outstanding bonds as of January 1 previous thereto, and also the transfer of any of its bonds by residents of this state to nonresidents within thirty (30) days previous to January 1.

(2) Every broker-dealer or his agent doing business in this state pursuant to KRS Chapter 292, shall on or before March 1, each year, as of the preceding January 1, furnish the ***Department of*** Revenue[~~ Cabinet~~] the following information:

  (a) Name and address of all Kentucky residents whose stocks, bonds, or other securities, excluding stocks and mutual funds, are held in a name other than that of the actual owner and which are in the possession of or subject to the control of such broker-dealer or his agent, for the benefit of such actual owner. This shall be construed to include all accounts fully paid;

  (b) Name of company by whom bonds or other securities were issued;

  (c) Interest rate, maturity date, par value, and number of bonds held, and sufficient information to measure the quantity of other securities; and

  (d) Market value as of the previous January 1.

Section 291. KRS 136.050 is amended to read as follows:

(1) Except where otherwise specially provided, all corporations required to make reports to the ***Department of*** Revenue[~~ Cabinet~~] shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.

(2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school, and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school, and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky Board of Tax Appeals acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following April 30 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the tax interest rate as defined in KRS 131.010(6).

Section 292. KRS 136.070 is amended to read as follows:

(1) Every corporation organized under the laws of this state, every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation in this state, except financial institutions as defined in KRS 136.500, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, those corporations exempted by Section 501 of the Internal Revenue Code, any property or facility which has been certified as an alcohol production facility as defined in KRS 247.910, any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390, and any other religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit, shall pay to the state an annual license tax of two dollars and ten cents ($2.10) on each one thousand dollars ($1,000) of the capital employed in the business as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section.

(2) (a) The term "capital" as used in this section means capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed moneys or any other accounts representing additional capital used and employed in the business. Accounts properly defined as "capital" in this section shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year;

(b) "Capital employed," in the case of corporations having property or payroll only in this state, means "capital" as defined above;

(c) "Capital employed," in the case of corporations having property or payroll both within and without this state means "capital" as defined above and as apportioned under subsection (3) of this section;

(d) Property means either real property or tangible personal property which is either owned or leased. Payroll means compensation, paid to one (1) or more individuals, as described in subsection (3) of this section. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction.

(3) The total capital, as determined under subsection (2) of this section, shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor plus the payroll factor, plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used;

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor:

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero, such property shall be valued by the ***department***~~[cabinet]~~ under regulations promulgated by the ***department***~~[cabinet]~~. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals, provided that such rental and such subrentals are reasonable. If the ***department***~~[cabinet]~~ determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the ***department***~~[cabinet]~~ may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer; and

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the ***department***~~[cabinet]~~ may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property;

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is

performed, but the individual's residence is in this state;

(d) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale;

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; or

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the taxpayer's capital in this state, the taxpayer may petition for or the ***department***[~~cabinet~~] may require:

(a) The exclusion of any one (1) or more of the factors;

(b) The inclusion of one (1) or more additional factors which will fairly measure the taxpayer's capital in this state; or

(c) The employment of any other method to produce an equitable apportionment of the taxpayer's capital.

(5) No corporation required to pay an annual license tax under this section shall pay less than thirty dollars ($30).

(6) Every corporation with a gross income of not more than five hundred thousand dollars ($500,000) shall be entitled to a credit equivalent to one dollar and forty cents ($1.40) per one thousand dollars ($1,000) of the initial three hundred and fifty thousand dollars ($350,000) of capital employed in the business, as computed under the provisions of KRS 136.070(2) and (3).

Section 293. KRS 136.0704 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.26-010 and subject to license tax under KRS 136.070;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090(1)(c)2.

(2) An approved company that entered into a revitalization agreement prior to July 13, 2004, shall:

(a) Compute the company's total license tax due as provided by KRS 136.070; and

(b) Compute the license tax due excluding the capital attributable to an economic revitalization project.

(3) The tax credit shall be the amount by which the tax computed under subsection (2)(a) of this section exceeds the tax computed under subsection (2)(b) of this section; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) The capital attributable to an economic revitalization project shall be determined by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(5) For an approved company that enters into a revitalization agreement after July 13, 2004, the tax credit shall be negotiated pursuant to KRS 154.26-090, but shall not exceed one hundred percent (100%) of the computed license tax attributable to the location of the economic revitalization project. In no case shall the tax credit exceed the limits set forth in KRS 154.26-090.

(6) The license tax attributable to a revitalization project shall be determined by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(7) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 294. KRS 136.073 is amended to read as follows:

(1) Every open-end registered investment company organized under the laws of this state and registered under the Investment Company Act of 1940 shall on or before the fifteenth day of the fourth month following the close of each fiscal year, if the company operates on a fiscal year basis or calendar year, file a report on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and pay directly to the State Treasury a tax of two dollars and ten cents ($2.10) for each one thousand dollars ($1,000) of "average net capital" as computed under subsections (2) and (3) of this section.

(2) The term "net capital" as used in this section means capital stock, surplus, borrowed moneys or any other accounts representing capital of the company less the amount of such capital which by said company is invested in Kentucky municipal securities which are obligations issued by the State of Kentucky, its political subdivisions, and the districts, authorities, agencies and instrumentalities of the state and its political subdivisions, the interest on which is exempt from

federal and Kentucky income tax.

(3) The term "average net capital" as used in this section means the average of the net capital of the company as shown on financial statements of the company as of the first and last days of the fiscal or calendar year of the company, whichever is applicable.

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall examine and audit each report as soon as practicable after each report is received. Failure to make reports and pay taxes as provided in this section shall subject the company to the same penalties imposed for such failure on the part of other corporations.

Section 295. KRS 136.076 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the taxpayer, the additional tax shall be assessed and a notice of assessment mailed to the taxpayer by the ***department***[~~cabinet~~] within four (4) years from the date the return was filed, except that in the case of a failure to file a return, or of a fraudulent return, the additional tax may be assessed at any time. The time provided in this section may be extended by agreement between the taxpayer and the ***department***[~~cabinet~~].

(2) For the purpose of subsection (1) of this section, a return filed before the last day prescribed by law for filing the return thereof shall be considered as filed on the last day. For taxable years beginning after December 31, 1993, any extension of time granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

Section 296. KRS 136.090 is amended to read as follows:

(1) Corporations liable to taxation under KRS 136.070 shall file with the ***Department of*** Revenue[~~ Cabinet~~] each year, on forms prepared by the ***department***[~~cabinet~~], a return signed by the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. This report shall give the name of the corporation; the name of the state or government under the laws of which it is incorporated; the date of incorporation; the place of its principal office in and out of this state; the name and address of its president and secretary; the name and address of its authorized agent or attorney upon whom process may be executed in this state; the name and address of the officer or agent in charge of its business in this state; and the nature and kind of business in which it is engaged.

(2) The report shall also give the total value of all the property owned and used by the corporation; the value of the property owned and used by it in this state; the aggregate amount of business transacted by it during the preceding calendar year or fiscal year; the amount of such business transacted in this state; and such other facts as the ***department***[~~cabinet~~] requires.

Section 297. KRS 136.100 is amended to read as follows:

(1) If the corporation operates on a calendar year basis, the reports required under KRS 136.090 shall be filed on or before April 15 in each year. If the corporation operates on a fiscal year basis, the reports shall be filed on or before the fifteenth day of the fourth month following the close of each fiscal year. The reports shall cover operations for the preceding calendar or fiscal year, as the case may be. Domestic corporations hereafter incorporated, and foreign corporations hereafter becoming the owners of property or transacting business in this state, shall make their reports to the ***Department of*** Revenue[~~ Cabinet~~] on or before the first filing date succeeding their incorporation or succeeding their becoming the owners of property or transacting business in this state, and shall in all respects be subject to the provisions of KRS 136.070 to 136.100 the same as corporations already in existence.

(2) A corporation may change its reporting period from a calendar year to a fiscal year, or from a fiscal year to a calendar year, by securing written permission from the ***department***[~~cabinet~~]. If a corporation so changes its basis of reporting, the first report filed on the new filing date shall cover operations for the period between the close of the old accounting period and the close of the new accounting period. The assessment of value shall be computed in the same manner as on any other return, but the tax due shall be computed on that proportionate part of the assessment that the period between the close of the old accounting period and the close of the new accounting period bears to the entire twelve (12) month period.

(3) In any case where two (2) or more corporations merge, consolidate or otherwise combine into a single corporation after the close of the taxable year, but before the beginning of the succeeding taxable year, all factors used to determine the corporation license tax assessment shall be computed on the basis of the consolidated accounting records of such corporations.

Section 298. KRS 136.120 is amended to read as follows:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company, cable television company, municipal solid waste disposal facility, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling, railroad car line company, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car, and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking companies, and taxicab companies, shall annually pay a tax on its operating property to the state and to the extent the

property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by the ***department***[~~cabinet~~], and shall allocate the assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the ***department***[~~cabinet~~] pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of the assessment date. In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the ***department***[~~cabinet~~] shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the ***department***[~~cabinet~~] under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

Section 299. KRS 136.130 is amended to read as follows:

(1) Each corporation included in KRS 136.120(1) shall annually, between December 31, and April 30, following, make and deliver to the ***Department of*** Revenue[~~ Cabinet~~] a report in such form as the ***department***[~~cabinet~~] may prescribe, showing such of the following facts as may be requested by the ***department***[~~cabinet~~]: The name and principal place of business of the corporation; the kind of business engaged in; the amount of capital stock, preferred and common, and the number of shares of each; the amount of stock paid up; the par and fair cash value of the stock; the highest price at which the stock was sold at a bona fide sale within twelve (12) months next before December 31 of the year for which the report is required to be made; the amount of surplus funds and undivided profits; the total amount of indebtedness as principal; the cost and year acquired of all operating property owned, operated, or leased, including property under construction, property held for future use, and the depreciation attributable thereto as of December 31, the cost and year acquired of all nonoperating tangible property and the depreciation attributable thereto; the cost and market value as of December 31 of all intangible property; the value of all other assets; the operating and nonoperating revenues, the net utility operating income before and after depreciation and before and after income taxes, the net income from operations, the net income including income from investments, and income from all other sources for twelve (12) months next preceding December 31 of the year for which the report is required; the amount and kind of operating property in this state, and where situated in each county, city, and taxing district, assessed or liable to assessment in this state, and the fair cash value thereof, the length and description of all the lines operated, owned, or leased in this state and in each county, city, and taxing district; and such other facts as the ***department***[~~cabinet~~] may require.

(2) The report shall cover the period of twelve (12) months ending December 31. The ***department***[~~cabinet~~] may change the date of the reports to conform to any change in date established by federal regulations.

(3) If any corporation is in the hands or under the control of a receiver or other person, by order of a court, the receiver or other person shall make the reports required by this section and by KRS 136.140.

(4) All public service corporations included in KRS 136.120 shall file with the report required by subsection (1) of this section a copy of all reports to their stockholders and a complete copy of their report to the Kentucky regulating authority for the year ending December 31.

(5) The ***Department of*** Revenue[~~ Cabinet~~] may grant an extension of thirty (30) days to file the public service property tax return when, in its judgment, good cause exists. The ***department***[~~cabinet~~] shall keep a record of every extension and the taxpayer shall attach a copy of the approved extension to his return when filed.

(6) A taxpayer may be granted a thirty (30) day extension for filing the public service company property tax return if it requests the extension before the due date of the return and includes with the extension request a report of any increases or decreases in property of fifty thousand dollars ($50,000) or more in any taxing district.

Section 300. KRS 136.132 is amended to read as follows:

(1) Each corporation included in KRS 136.120(1) shall annually, when filing the report required by KRS 136.130, provide to the ***Department of*** Revenue[~~ Cabinet~~] a listing of all motor vehicles and trailers operated, owned, or leased by it which are subject to registration in Kentucky with the latest registration or certificate number issued to such motor vehicle or trailer and the make, model and year of each vehicle.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall, when valuing the property of corporations or companies assessable by it, value the vehicles at no less than the value used by the property valuation administrator.

(3) In certifying the assessment of property of public service companies subject to local taxation, the ***department***[~~cabinet~~] shall separately certify the amount of the assessment representing the valuation of motor vehicles and trailers or an apportionment thereof.

Section 301. KRS 136.140 is amended to read as follows:

(1) If a public service corporation, foreign or domestic, operates and conducts its business in other states as well as in this state, the report required by KRS 136.130 shall show the following additional facts: the cost and year acquired of the operating property operated, owned, or leased, including property under construction, property held for future use, and depreciation attributable thereto for the property in this state as of December 31; and such other facts as the ***department***[~~cabinet~~] may require.

(2) All public service corporations included in KRS 136.120 shall file with the report required by KRS 136.130 and this section a copy of all reports to their stockholders and a complete copy of their report to the federal regulating agency if their operations are interstate.

Section 302. KRS 136.150 is amended to read as follows:

If any corporation fails to report as required by KRS 136.130 and 136.140 on or before April 30 of each year, or May 30 if the ***Department of*** Revenue[~~ Cabinet~~] has granted the corporation an extension, the ***Department of*** Revenue[~~ Cabinet~~] shall ascertain the required facts and values in such manner and by such means as it deems proper, at the cost of the corporation failing to make the report.

Section 303. KRS 136.160 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall determine the fair cash value of the operating property of a domestic public service corporation as a unit. The fair cash value of the operating property shall be equalized.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall determine the fair cash value of the operating property of a foreign public service corporation or a domestic public service corporation with property or routes in Kentucky and outside Kentucky as a unit according to subsection (1). The fair cash value of the operating property everywhere valued as a unit shall be apportioned to Kentucky based on the average of the property factor and the business factor. The fair cash value of the operating property in Kentucky shall be equalized.

   (a) The property factor shall fairly reflect the amount of operating property operated, owned, or leased in Kentucky compared to the total amount of operating property operated, owned, or leased everywhere. An allocable portion of the rolling stock, aircraft, and watercraft of a common carrier shall be included in the operating property, operated, owned, or leased in Kentucky. This factor may be a single factor or an average of several factors.

   (b) The business factor shall fairly reflect the utilization of the operating property operated, owned, or leased in Kentucky compared to the utilization of the operating property operated, owned, or leased everywhere. This factor may be a single factor or an average of several factors.

(3) The nonoperating tangible and nonoperating intangible property of public service corporations whose operating property is valued according to either subsection (1) or (2) shall be valued by the ***Department of*** Revenue[~~ Cabinet~~] in the same manner and according to the same standards as if this property were valued by the property valuation administrator in the county where the property has a taxable situs.

Section 304. KRS 136.170 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall allocate the assessed value of the operating property in this state among the counties, cities, and other taxing districts. The location of operating property and the proportion which the length of line or route operated in such taxing district bears to the total length of lines or route operated in this state shall be considered in this allocation and such other reasonable evidence of value as the ***Department of*** Revenue[~~ Cabinet~~] may by regulations prescribe; provided, however, that the assessed value of nonoperating tangible property shall be allocated to the county, city, or other taxing district where the property is situated.

Section 305. KRS 136.180 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall, immediately after fixing the assessed value of the operating property and other property of a public service corporation for taxation, notify the corporation of the valuation and the amount of assessment for state and local purposes. When the valuation has been finally determined, the ***department***[~~cabinet~~] shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount of property liable for county, city, or district tax.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall compute annually a multiplier for use in establishing the local tax rate for the operating property of railroads or railway companies that operate solely within the Commonwealth. The applicable local

tax rates on the operating property shall be adjusted by the multiplier. The multiplier shall be calculated by dividing the statewide locally taxable business tangible personal property by the total statewide business tangible personal property.

(4) The ***Department of*** Revenue[~~Cabinet~~] shall annually calculate an aggregate local rate for each local taxing district to be used in determining local taxes to be collected for railroad carlines. The rate shall be the statewide tangible tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment. Effective January 1, 1994, state and local taxes on railroad carline property shall become due forty-five (45) days from the date of notice and shall be collected directly by the ***Department of*** Revenue[~~Cabinet~~]. The local taxes collected by the ***Department of*** Revenue[~~Cabinet~~] shall be distributed to each local taxing district levying a tax on railroad carlines based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the ***Department of*** Revenue[~~Cabinet~~] by any local taxing district under the provisions of subsection (4) of this section shall be deducted.

(5) The certification of valuation shall be filed by each county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value certified by the ***department***[~~cabinet~~] shall pay an annual fee to the ***department***[~~cabinet~~] which represents an allocation of ***department***[~~cabinet~~] operating and overhead expenses incurred in generating the valuations. This fee shall be determined by the ***department***[~~cabinet~~] and shall apply to valuations for tax periods beginning on or after December 31, 1981.

Section 306. KRS 136.181 is amended to read as follows:

Boats, tugs, barges, and other watercraft of any nonresident person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be valued by the ***Department of*** Revenue[~~Cabinet~~] for purposes of taxation and shall be assessed as of January 1 each year by the ***Department of*** Revenue[~~Cabinet~~]; and the ***department***[~~cabinet~~] shall fairly divide, allocate, and certify such assessments to each county, city, town, or other taxing district within this state, within or through which such route or system is operated, the division, allocation, and certification to be determined in the following manner:

(1) The proportion of the value of the property which the length of the lines or route operated in this state bears to the total length of lines or route operated in this state and elsewhere, shall be considered in fixing the value of the property for taxation in this state. Any other reasonable evidence of value shall be considered in fixing the value, but such evidence must be prescribed by ***department***[~~cabinet~~] regulations;

(2) After ascertaining the portion of the system valuation of such property attributable to this state, the ***Department of*** Revenue[~~Cabinet~~] shall allocate the value of the property among the counties, cities, towns, and other taxing districts. The proportion which the length of line or route operated in that jurisdiction or taxing district bears to the total length of lines or route operated in this state shall be considered in this allocation and such other reasonable evidence of value as the ***Department of*** Revenue[~~Cabinet~~] may by regulations prescribe.

Section 307. KRS 136.182 is amended to read as follows:

On or before March 1, 1955, and each year thereafter, each nonresident person, corporation, partnership or other business association owning or operating boats, tugs, barges, or other watercraft whose route or system is partly within this state and partly within another state or states, shall on forms provided by the ***Department of*** Revenue[~~Cabinet~~] provide the ***Department of*** Revenue[~~Cabinet~~] with a detailed description of all such property as well as a detailed description of the entire route or system traversed and such other information as the ***Department of*** Revenue[~~Cabinet~~] may by regulation prescribe.

Section 308. KRS 136.183 is amended to read as follows:

The taxes on the above property shall become due at the same time and shall be subject to the same discount and penalties as provided by KRS 134.020, and shall be collected in the same manner as taxes on other tangible property; except that the state tax on such property shall be collected directly by the ***Department of*** Revenue[~~Cabinet~~].

Section 309. KRS 136.184 is amended to read as follows:

Any taxpayer who has been assessed by the ***Department of*** Revenue[~~Cabinet~~] in the manner outlined above shall have thirty (30) days from the date of the ***department's***[~~cabinet's~~] notice of the tentative assessment in which to protest and ask for a change thereof in the manner provided by KRS 131.110.

Section 310. KRS 136.186 is amended to read as follows:

When the ***Department of*** Revenue[~~Cabinet~~] has made a final determination as to the valuation of any such property owned or operated by such nonresident person, corporation, partnership or other business association, it shall immediately certify the amount thereof to the county clerk of each county in which any such property is liable for taxation. The certification shall be filed by each county clerk in his office and the county clerk shall certify to the proper collecting officer of the county, city, town, or taxing district for collection.

Section 311. KRS 136.1873 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 132.487, trucks, trailers, tractors, semitrailers, and buses of any person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be assessed by the ***Department of*** Revenue[~~Cabinet~~] for purposes of taxation as of

January 1 each year.

(2) The proportion of miles operated in this state compared to the total miles operated everywhere shall be considered in fixing the value of the property for taxation. Other reasonable evidence shall be considered in fixing the value. However, pick-up and delivery vehicles operating from a terminal within this state or vehicles which do not leave this state in the normal course of business shall not be valued on an apportioned basis.

Section 312. KRS 136.1875 is amended to read as follows:

On or before April 15, 1991, and each year thereafter, each person, corporation, partnership, or other business association owning or operating trucks, tractors, trailers, semitrailers, and buses whose route or system is partly within this state and partly within another state or states, shall on forms provided by the ***Department of*** Revenue[~~ Cabinet~~] provide the ***department***[~~cabinet~~] with a detailed description of all its vehicles operating within this state along with the necessary mileage data to be used in apportioning the value.

Section 313. KRS 136.1877 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the ***department***[~~cabinet~~] in the manner outlined in KRS 136.1873 shall have forty-five (45) days from the date of the ***department's***[~~cabinet's~~] notice of the tentative assessment to protest as provided by KRS 131.110.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(3) The state and local taxes on the property are due forty-five (45) days from the date of notice and shall be collected directly by the ***Department of*** Revenue[~~ Cabinet~~].

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.

(5) The local taxes collected by the ***Department of*** Revenue[~~ Cabinet~~] shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the ***Department of*** Revenue[~~ Cabinet~~] by any local taxing district under the provisions of KRS 136.180(5) shall be deducted.

Section 314. KRS 136.190 is amended to read as follows:

(1) The superintendent of schools in each district in which any individual, group of individuals or corporation, operates public utility or other franchise taxpaying property assessed under KRS 136.120 shall, on or before the first day of January, 1957, furnish to the county clerk of the county in which the district is situated, to each franchise taxpayer within the district, and to the ***Department of*** Revenue[~~ Cabinet~~], the boundary of his school district. The superintendent of schools in each district in which any franchise-paying corporation, individual, or group of individuals operates shall, on or before the first day of January, 1958, and each year thereafter, furnish to the county clerk, to each franchise taxpayer within the district, and to the ***Department of*** Revenue[~~ Cabinet~~], any changes made in the boundary of his school district during the immediately preceding twelve (12) months.

(2) The engineer of cities of the first class and the city clerk of cities of the second, third, fourth, fifth, and sixth classes shall notify the county clerk, each franchise taxpayer within the city, and the ***Department of*** Revenue[~~ Cabinet~~] of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

(3) The responsible governing official or the chairman of the governing body of any taxing district other than the county, school district, or city shall notify the county clerk, each franchise taxpayer within the district, and the ***Department of*** Revenue[~~ Cabinet~~] of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

Section 315. KRS 136.290 is amended to read as follows:

(1) Every federally or state chartered savings and loan association, savings bank, and other similar institutions operating solely in Kentucky shall, during January of each year, file with the ***Department of*** Revenue[~~ Cabinet~~] a report containing such information and in such form as the ***department***[~~cabinet~~] may require.

(2) The ***department***[~~cabinet~~] shall fix the total value, as of January 1 of each year, of the capital of each financial institution included in subsection (1) of this section. Capital shall include certificates of deposit, savings accounts, demand deposits, undivided profits, surplus, and general reserves, excepting the share of borrowing members where the amount borrowed equals or exceeds the amount paid in by those members. For Agricultural Credit Associations chartered by the Farm Credit Administration, capital shall be computed by deducting the book value of the association's investment in any other wholly owned institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or

136.310 or that is exempt from state taxation by federal law. The ***department***[~~cabinet~~] shall immediately notify each institution of the value so fixed.

Section 316. KRS 136.310 is amended to read as follows:

(1) Every federally or state chartered savings and loan association, savings bank, and other similar institution authorized to transact business in this state, with property and payroll within and without this state, shall, during January of each year, file with the ***Department of*** Revenue[~~ Cabinet~~] a report containing information and in such form as the ***department***[~~cabinet~~] may require.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall fix the fair cash value, as of January 1 of each year, of the capital attributable to Kentucky in each financial institution included in subsection (1) of this section. The methodology employed by the ***department***[~~cabinet~~] shall be a three (3) step process as follows:

(a) The total value of deposits maintained in Kentucky less any amounts where the amount borrowed equals or exceeds the amount paid in by those members.

(b) The Kentucky apportioned value of capital shall include undivided profits, surplus, general reserves, and paid-up stock. For Agricultural Credit Associations chartered by the Farm Credit Administration, capital shall be computed by deducting the book value of the association's investment in any other wholly owned institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or this section or that is exempt from state taxation by federal law. The Kentucky value of capital shall be determined by a fraction, the numerator of which is the receipts factor plus the outstanding loan balance factor plus the payroll factor, and the denominator of which is three (3).

(c) The values determined in steps (a) and (b) of this subsection shall be added together to determine total Kentucky capital and then reduced by the influence of ownership in tax-exempt United States obligations to determine Kentucky taxable capital. The influence of tax-exempt United States obligations is to be determined from the reports of condition filed with the applicable supervisory agency as follows: the average amount of tax-exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by total Kentucky capital. The ***department***[~~cabinet~~] shall immediately notify each institution of the value so fixed.

(3) The receipts factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is all receipts derived from loans and other sources negotiated through offices or derived from customers in Kentucky, and the denominator of which is total business receipts for the preceding calendar year.

(4) The outstanding loan balance factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is the average balance of outstanding loans negotiated from offices or made to customers in Kentucky. The denominator is the average balance of all outstanding loans. The average outstanding loan balance is determined by adding the outstanding loan balance at the beginning of the preceding calendar year to the outstanding loan balance at the end of the preceding calendar year and dividing by two (2). However, if the yearly beginning balance and ending balance results in an inequitable factor, the average outstanding loan balance may be computed on a monthly average balance.

(5) The payroll factor specified in subsection (2)(b) of this section shall be determined for the preceding calendar year under the provisions of KRS 141.120(8)(b) and regulations promulgated thereunder.

(6) By July 1 succeeding the filing of the report as provided in subsection (1) of this section, each financial institution included in subsection (1) of this section shall pay directly into the State Treasury a tax of one dollar ($1) for each one thousand dollars ($1,000) paid in on its Kentucky taxable capital as fixed in subsection (2)(c) of this section. The institution shall not be required to pay local taxes upon its capital stock, surplus, undivided profits, notes, mortgages, or other credits, and the tax provided by this section shall be in lieu of all taxes for state purposes on intangible property of the institution, nor shall any depositor of the institution be required to list his deposits for taxation under KRS 132.020. Failure to make reports and pay taxes as provided in this section shall subject the institution to the same penalties imposed for such failure on the part of the other corporations.

(7) If a financial institution included in subsection (1) of this section selects, it may deduct taxes imposed in subsection (6) of this section from the dividends paid or credited to a nonborrowing shareholder.

(8) Every Agricultural Credit Association chartered by the Farm Credit Administration being authorized to transact business in Kentucky but having no employees located within or without the state shall be subject to the same tax imposed pursuant to either KRS 136.300 or this section as that imposed upon its wholly owned Production Credit Association subsidiary. For purposes of computing Kentucky apportioned value of capital pursuant to subsection (2) of this section, those Agricultural Credit Associations subject to the tax imposed by this section shall utilize that Kentucky apportionment fraction computed and utilized by its wholly owned Production Credit Association subsidiary for the same report period.

Section 317. KRS 136.320 is amended to read as follows:

(1) Each life insurance company incorporated under the laws of and doing business in Kentucky shall value as of January 1 and report to the ***Department of*** Revenue[~~ Cabinet~~] by April 1 each year, on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~], the following:

(a) The fair cash value of the company's intangible personal property, hereinafter referred to as "capital," consisting of all money in hand, shares of stock, notes, bonds, accounts, and other credits, exclusive of due and deferred premiums, whether secured by mortgage, pledge, or otherwise, or unsecured.

(b) The fair cash value of the company's intangible personal property exempt from taxation by law.

(c) The aggregate amount of the company's reserves, reduced by the amount of due and deferred premiums, maintained in accordance with the applicable provisions of KRS 304.6-040 and 304.6-130 to 304.6-180, on all outstanding policies and contracts supplementary thereto.

(d) Other information as may be required by the ***Department of*** Revenue[~~ Cabinet~~] to accurately determine the fair cash value of each company's "taxable capital" and "taxable reserves."

(2) Based on information supplied by each company and other information that may be available, the ***Department of*** Revenue[~~ Cabinet~~] shall value each company's "taxable capital" and "taxable reserves" as follows:

(a) "Taxable capital" shall be determined by deducting "taxable reserves" from "capital," less exempt intangible personal property.

(b) "Taxable reserves" shall be determined by multiplying the aggregate amount of reserves as computed in subsection (1)(c) of this section by the percentage determined by dividing "capital," less exempt intangible personal property, by "capital," including exempt intangible personal property.

(3) (a) An annual tax for state purposes shall be imposed against the fair cash value of "taxable capital" for calendar years beginning before 2000, at a rate of seventy cents ($0.70) on each one hundred dollars ($100).

(b) An annual tax for state purposes shall be imposed against every company making an election pursuant to KRS 136.335 to be taxed under this section, against the fair cash value of taxable capital for calendar years beginning in 2000 as follows:

1. For calendar year 2000, fifty-six cents ($0.56) on each one hundred dollars ($100);
2. For calendar year 2001, forty-two cents ($0.42) on each one hundred dollars ($100);
3. For calendar year 2002, twenty-eight cents ($0.28) on each one hundred dollars ($100);
4. For calendar year 2003, fourteen cents ($0.14) on each one hundred dollars ($100); and
5. For calendar year 2004 and each calendar year thereafter, one tenth of one cent ($0.001) on each one hundred dollars ($100).

(c) An annual tax for state purposes shall be imposed at a rate of one-tenth of one cent ($0.001) on each one hundred dollars ($100) of the fair cash value of "taxable reserves"

(d) Beginning in tax year 2004 an insurer may offset the tax liability imposed under this subsection against the tax liability imposed under subsection (4) of this section.

(4) For calendar year 2000, and each calendar year thereafter, every company subject to the tax imposed by subsection (3) of this section, and making an election pursuant to KRS 136.335 to be taxed under this section, shall pay the following rates of tax upon each one hundred dollars ($100) of premium receipts:

(a) For calendar year 2000, thirty-eight cents ($0.38);

(b) For calendar year 2001, seventy-two cents ($0.72);

(c) For calendar year 2002, one dollar and two cents ($1.02);

(d) For calendar year 2003, one dollar and twenty-eight cents ($1.28); and

(e) For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50).

Every company subject to the tax imposed by this subsection shall, by March 1 of each year, return to the ***Department of*** Revenue[~~ Cabinet~~] a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, premiums received for original insurance, premiums received for renewal, revival, or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance but dividends on accident and health insurance policies may be deducted.

(5) The taxes imposed under subsections (3) and (4) of this section shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district, except as provided in subsections (6) and (7) of this section.

(6) The county in which the principal office of the company is located may impose a tax of fifteen cents ($0.15) on each one hundred dollars ($100) of "taxable capital."

(7) The city in which the principal office of the company is located may impose a tax of fifteen cents ($0.15) on each one hundred dollars ($100) of "taxable capital."

(8) The ***Department of*** Revenue[~~ Cabinet~~] shall by September 1 each year bill each company for the state taxes. It shall immediately certify to the county clerk of the county in which the principal office of the company is located the value of

"taxable capital" subject to local taxation. The county clerk shall prepare and deliver a bill to the sheriff for collection of taxes collectible by the sheriff and shall certify the value to all other collecting officers of districts authorized to levy a tax.

(9) Each company's real and tangible personal property shall be subject to taxation at fair cash value by the state, county, school, and other taxing districts in which the property is located in the same manner and at the same rates as all other property of the same class.

(10) Taxes on property subject to taxation under this section shall be subject to the same discount and penalties as provided in KRS 134.020 and shall be collected in the same manner as taxes on property locally assessed, except that the state tax on the "taxable capital" and "taxable reserves" shall be collected directly by the ***Department of*** Revenue[~~ Cabinet~~].

(11) Any taxpayer subject to taxation under this section may protest in the manner provided in KRS 131.110.

Section 318. KRS 136.330 is amended to read as follows:

(1) Every life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the ***Department of*** Revenue[~~ Cabinet~~] a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted. Premium receipts shall not include annuity premiums or annuity dividends beginning in calendar year 2000.

(2) (a) An annual tax on premium receipts shall be imposed against every company making a return under this subsection for calendar years beginning before 2000 at a rate of two dollars ($2) upon each one hundred dollars ($100) of premium receipts.

(b) An annual tax on premium receipts shall be imposed against every company making an election pursuant to KRS 136.335 to be taxed under this section, and every company making a return under this section, for calendar years beginning in 2000 as follows:

1. For calendar year 2000, one dollar and ninety cents ($1.90) upon each one hundred dollars ($100) of premium receipts;
2. For calendar year 2001, one dollar and eighty cents ($1.80) upon each one hundred dollars ($100) of premium receipts;
3. For calendar year 2002, one dollar and seventy cents ($1.70) upon each one hundred dollars ($100) of premium receipts;
4. For calendar year 2003, one dollar and sixty cents ($1.60) upon each one hundred dollars ($100) of premium receipts; and
5. For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50) on each one hundred dollars ($100) of premium receipts.

(3) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 shall not be subject to taxation under this section.

Section 319. KRS 136.335 is amended to read as follows:

Beginning with calendar year 2000, every life insurance company incorporated under the laws of and doing business in Kentucky shall make an irrevocable election whether to be taxed under the provisions of KRS 136.320 or 136.330. For insurance companies incorporated under the laws of and doing business in Kentucky, prior to January 1, 2000, the election shall be filed with the commissioner of insurance and the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] on or before January 1, 2000. For insurance companies applying for a certificate to do business in Kentucky as a domestic life insurance company, after January 1, 2000, the election shall be filed with the company's initial application for certificate of authority to do business in Kentucky.

Section 320. KRS 136.340 is amended to read as follows:

(1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the ***Department of*** Revenue[~~ Cabinet~~] a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

(2) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 shall not be subject to taxation under this section.

Section 321. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the ***Department of*** Revenue[~~Cabinet~~] on or before the first day of March in each year, a tax of two percent (2%) of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.

(5) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and 18A.228 shall not be subject to taxation under this section.

Section 322. KRS 136.360 is amended to read as follows:

Every stock insurer other than life doing business in this state shall pay to the ***Department of*** Revenue[~~Cabinet~~] on or before the first day of March of each year, for the purpose of defraying the expenses authorized by KRS Chapter 227, and KRS Chapter 304, Subtitle 24, three-fourths of one percent (0.75%) of all amounts paid to such insurance company or its representative, whether such payments are designated as premiums or otherwise, during the previous calendar year for fire insurance and that portion of the premium reasonably allocable to insurance against the hazard of fire included in other coverages other than life and disability insurances. In computing such amounts there shall be deducted amounts refunded on policies canceled or not taken, and dividends paid or credited to policyholders. All amounts so collected shall be deposited in the general expenditure fund in the State Treasury.

Section 323. KRS 136.370 is amended to read as follows:

Each attorney, for the exchange of reciprocal or interinsurance contracts, under KRS Chapter 304, shall pay to the ***Department of*** Revenue[~~cabinet~~] on or before March 1 of each year a tax of two percent (2%) of the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, less all amounts returned to subscribers or accredited to their account as savings. In addition, the attorney shall pay an annual premium tax of three-fourths of one percent (0.75%) of all amounts as prescribed for every stock insurer by and for the purposes specified in KRS 136.360.

Section 324. KRS 136.390 is amended to read as follows:

(1) All associations of underwriters authorized under KRS 304.3-040, 304.3-140, 304.28-010, 304.28-030, 304.28-040, and 304.28-050, and their representatives, shall make the same reports as are required of foreign stock insurance companies and their representatives transacting the same or similar kinds of insurance business in this state, and shall pay the same taxes as are required to be paid by such companies.

(2) All foreign mutual assessment companies, associations, individual firms, underwriters or Lloyd's, having resident members doing business in this state, who shall enter into contracts of insurance with each other or into agreements to indemnify each other against losses by fire, lightning, windstorm or other casualties for which there is no premium charged or collected at the time insurance is made, shall be deemed to be doing an insurance business in this state, and shall annually, by July 30, pay to the ***Department of*** Revenue[~~Cabinet~~] a license tax of two dollars ($2) upon each one hundred dollars ($100) of assessments paid or collected in any one (1) year. Each resident member shall be liable to the state for the license tax and all interest and penalties.

(3) No person shall fail or refuse to make a report giving all the data and information necessary to determine the amount of revenue due under subsection (2) of this section, or fail to make the report provided for in subsection (2) of this section, or fail to pay the tax due thereon.

Section 325. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the ***Department of*** Revenue[~~Cabinet~~], on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the

previous two (2) calendar years may report and remit to the ***Department of*** Revenue[~~ Cabinet~~] all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).

(b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the ***commissioner***[~~secretary~~] of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the ***commissioner***[~~secretary~~] of revenue to calculate an appropriate rate, the secretary for the Public Protection and Regulation Cabinet and the secretary for the Justice Cabinet shall certify to the ***commissioner***[~~secretary~~] of revenue, no later than January 1 of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the ***commissioner***[~~secretary~~] of revenue shall advise the commissioner of insurance of the new rate and the commissioner ***of revenue*** shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

(4) No later than July 1 of each year, the Department of Insurance shall provide the ***Department of*** Revenue[~~ Cabinet~~] with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Department of Insurance. The ***Department of*** Revenue[~~ Cabinet~~] shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year, and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Department of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the ***Department of Revenue***[~~cabinet~~] shall not identify or divulge the confidential tax information of any individual insurer in this report.

Section 326. KRS 136.410 is amended to read as follows:

Every bail bondsman doing business in this Commonwealth shall, on or before the first day of March of each year, return to the ***Department of*** Revenue[~~ Cabinet~~] a statement of all amounts paid to him or his representatives, as premiums for bail bonds written in the courts of this Commonwealth during the preceding calendar year, or since the last returns were made, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the bail bondsman or his representatives. Amounts received for reimbursement for expenses or court costs are not to be considered as premiums for the purposes of this section.

Section 327. KRS 136.500 is amended to read as follows:

As used in KRS 136.500 to 136.575, unless the context requires otherwise:

(1) "Billing address" means the location indicated in the books and records of the financial institution, on the first day of the

taxable year or the date in the taxable year when the customer relationship began, as the address where any notice, statement, or bill relating to a customer's account is mailed;

(2) "Borrower located in this state" means a borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state or a borrower that is not engaged in a trade or business;

(3) "Credit card holder located in this state" means a credit card holder whose billing address is in this state;

(4) "***Department***~~[Cabinet]~~" means the ***Department of*** Revenue~~[Cabinet]~~;

(5) "Commercial domicile" means:

(a) The location from which the trade or business is principally managed and directed; or

(b) The state of the United States or the District of Columbia from which the financial institution's trade or business in the United States is principally managed and directed, if a financial institution is organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of the employees are performed, as of the last day of the taxable year;

(6) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in the employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, the determination of whether the payments would constitute gross income to the employees under the Internal Revenue Code shall be made as though the employees were subject to the Internal Revenue Code;

(7) "Credit card" means credit, travel, or entertainment card;

(8) "Credit card issuer's reimbursement fee" means the fee a financial institution receives from a merchant's bank because one (1) of the persons to whom the financial institution has issued a credit card has charged merchandise or services to the credit card;

(9) "Employee" means, with respect to a particular financial institution, "employee" as defined in Section 3121(d) of the Internal Revenue Code;

(10) "Financial institution" means:

(a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;

(b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 287.135;

(c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or

(d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;

(11) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property.

(a) "Gross rents" includes but is not limited to:

1. Any amount payable for the use or possession of real property or tangible property, whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

2. Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

3. A proportionate part of the cost of any improvement to real property made by or on behalf of the financial institution which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land by or on behalf of the financial institution, the value of the land is determined by multiplying the gross rent by eight (8) and the value of the building is determined in the same manner as if owned by the financial institution;

(b) The following are not included in the term "gross rents":

1. Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

2. Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

3. Reasonable amounts payable for storage, if these amounts are payable for space not designated and not

under the control of the financial institution; and

4. That portion of any rental payment which is applicable to the space subleased from the financial institution and not used by it;

(12) "Internal Revenue Code" means the Internal Revenue Code, Title 26 U.S.C., in effect on December 31, 2001, exclusive of any amendments made subsequent to that date;

(13) "Loan" means any extension of credit resulting from direct negotiations between the financial institution and its customer, and the purchase, in whole or in part, of the extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under Section 595 of the Internal Revenue Code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, noninterest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment company, or other mortgage-backed or asset-backed security, and other similar items;

(14) "Loan secured by real property" means a loan or other obligation for which fifty percent (50%) or more of the aggregate value of the collateral used to secure the loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property;

(15) "Merchant discount" means the fee or negotiated discount charged to a merchant by the financial institution for the privilege of participating in a program where a credit card is accepted in payment for merchandise or services sold to the card holder;

(16) "Person" means an individual, estate, trust, partnership, corporation, limited liability company, or any other business entity;

(17) "Principal base of operations" means:

(a) With respect to transportation property, the place from which the property is regularly directed or controlled; and

(b) With respect to an employee:

1. The place the employee regularly starts work and to which the employee customarily returns in order to receive instructions from his or her employer; or

2. If the place referred to in subparagraph 1. of this paragraph does not exist, the place the employee regularly communicates with customers or other persons; or

3. If the place referred to in subparagraph 2. of this paragraph does not exist, the place the employee regularly performs any other functions necessary to the exercise of the employee's trade or profession at some other point or points;

(18) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the financial institution may claim depreciation for federal income tax purposes, or property to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure;

(19) "Regular place of business" means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution;

(20) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country;

(21) "Syndication" means an extension of credit in which two (2) or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount;

(22) "Taxable year" means calendar year 1996 and every calendar year thereafter;

(23) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to the property, such as rolling stock, barges, or trailers;

(24) "United States obligations" means all obligations of the United States exempt from taxation under 31 U.S.C. sec. 3124(a) or exempt under the United States Constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States Constitution or any statute of the United States; and

(25) "Kentucky obligations" means all obligations of the Commonwealth of Kentucky, its counties, municipalities, taxing districts, and school districts, exempt from taxation under the Kentucky Revised Statutes and the Constitution of Kentucky.

Section 328. KRS 136.525 is amended to read as follows:

(1) A financial institution whose business activity is taxable both within and without this Commonwealth shall apportion its net capital pursuant to the provisions of this section.

(2) Net capital shall be apportioned to this Commonwealth by multiplying total net capital by the apportionment percentage.

The apportionment percentage is determined by adding together the financial institution's receipts factor as determined under the provisions of KRS 136.530, property factor as determined under the provisions of KRS 136.535, and payroll factor as determined under the provisions of KRS 136.540 and dividing the sum by three (3). If one (1) of the factors is missing, the two (2) remaining factors are added and the sum is divided by two (2). If two (2) of the factors are missing, the remaining factor is the apportionment percentage. A factor is missing if both its numerator and denominator are zero (0), but it is not missing merely because the numerator is zero (0).

(3) Each factor shall be calculated by the method of accounting used by the financial institution for the taxable year.

(4) If the apportionment provisions of KRS 136.500 to 136.575 do not fairly represent the extent of the financial institution's business activity in this Commonwealth, the financial institution may petition for or the ***department***~~[cabinet]~~ may require, in respect to all or any part of the financial institution's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one (1) or more of the factors;

(c) The inclusion of one (1) or more additional factors which will fairly represent the financial institution's business activity in this Commonwealth; or

(d) The employment of any other method to effectuate an equitable apportionment of the financial institution's net capital.

Section 329. KRS 136.530 is amended to read as follows:

(1) The receipts factor is a fraction, the numerator of which is the receipts of the financial institution in this Commonwealth during the taxable year as determined by subsection (2) of this section and the denominator of which is the receipts of the financial institution within and without this Commonwealth during the taxable year. Receipts shall include the following:

(a) Receipts from the lease or rental of real property owned by the financial institution;

(b) Receipts from the lease or rental of tangible personal property owned by the financial institution;

(c) Interest and fees or penalties in the nature of interest from loans secured by real property;

(d) Interest and fees or penalties in the nature of interest from loans not secured by real property;

(e) Net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code;

(f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees;

(g) Net gains, but not less than zero (0), from the sale of credit card receivables;

(h) All credit card issuer's reimbursement fees;

(i) Receipts from merchant discount. Receipts from merchant discount shall be computed net of any cardholder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders;

(j) Loan servicing fees derived from loans secured by real property;

(k) Loan servicing fees derived from loans not secured by real property;

(l) Interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities. Investment assets and activities and trading assets and activities include but are not limited to investment securities, trading account assets, federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions. The receipts factor shall include the following amounts:

1. The amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements; and

2. The amount by which interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from these assets and activities;

(m) All receipts derived from sales that would be included in the factor established by KRS 136.070(3)(d)1., 2., and 3.; and

(n) Receipts from services not otherwise specifically listed.

(2) A determination of whether receipts should be included in the numerator of the fraction shall be made as follows:

(a) Receipts from the lease or rental of real property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth or receipts from the sublease of real property if the property is located within this Commonwealth.

(b) 1. Except as described in subparagraph 2. of this paragraph, receipts from the lease or rental of tangible personal property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth when it is first placed in service by the lessee.

2. Receipts from the lease or rental of transportation property owned by the financial institution are included in the numerator of the receipts factor to the extent that the property is used in this Commonwealth. The extent an aircraft will be deemed to be used in this Commonwealth and the amount of receipts that is to be included in the numerator of this Commonwealth's receipts factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(c) 1. Interest and fees or penalties in the nature of interest from loans secured by real property shall be included in the numerator if the property is located within this Commonwealth. If the property is located both within this Commonwealth and one (1) or more other states, receipts shall be included if more than fifty percent (50%) of the fair market value of the real property is located within this Commonwealth. If more than fifty percent (50%) of the fair market value of the real property is not located within any one (1) state, then the receipts described in this subparagraph shall be included in the numerator if the borrower is located in this Commonwealth.

2. The determination of whether the real property securing a loan is located within this Commonwealth shall be made as of the time the original agreement was made, and any subsequent substitutions of collateral shall be disregarded.

(d) Interest and fees or penalties in the nature of interest from loans not secured by real property shall be included in the numerator if the borrower is located in this Commonwealth.

(e) Net gains from the sale of loans shall be included in the numerator as provided in subparagraphs 1. and 2. of this paragraph. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.

1. The amount of net gains, but not less than zero (0), from the sale of loans secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

2. The amount of net gains, but not less than zero (0), from the sale of loans not secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, shall be included in the numerator if the billing address of the card holder is in this Commonwealth.

(g) Net gains, but not less than zero (0), from the sale of credit card receivables to be included in the numerator shall be determined by multiplying the amount established in paragraph (g) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(h) Credit card issuer's reimbursement fees to be included in the numerator shall be determined by multiplying the amount established in paragraph (h) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(i) Receipts from merchant discount shall be included in the numerator if the commercial domicile of the merchant is in this Commonwealth. Receipts from merchant discount shall be computed net of any cardholder charge backs but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(j) 1. a. Loan servicing fees derived from loans secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (j) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

b. Loan servicing fees derived from loans not secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (k) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

2. In circumstances in which the financial institution receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include the fees if the borrower is located in this Commonwealth.

(k) Receipts from services not otherwise apportioned under this section shall be included in the numerator if the service is performed in this Commonwealth. If the service is performed both within and without this Commonwealth, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income-producing activity is performed in this Commonwealth based on cost of performance.

(l) 1. The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities described in paragraph (l) of subsection (1) of this section that are attributable to this Commonwealth.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from the assets and activities by a fraction the numerator of which is the average value of the assets that are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all the assets.

b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all funds and securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the average value of trading assets which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all assets.

d. For purposes of this subparagraph, average value shall be determined using the rules for determining the average value of tangible personal property set forth in KRS 136.535(3) and (4).

2. In lieu of using the method set forth in subparagraph 1. of this paragraph, the financial institution may elect, or the ***department***~~[cabinet]~~ may require in order to fairly represent the business activity of the financial institution in this Commonwealth, the use of the method set forth in this subparagraph.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from assets and activities by a fraction the numerator of which is the gross income from assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the gross income from funds and securities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all funds and securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the gross income from trading assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

3. If the financial institution elects or is required by the ***department***[~~cabinet~~] to use the method set forth in subparagraph 2. of this paragraph, it shall use this method on all subsequent returns unless the financial institution receives prior permission from the ***department***[~~cabinet~~] to use, or the ***department***[~~cabinet~~] requires, a different method.

4. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside this Commonwealth by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this Commonwealth. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one (1) regular place of business and one (1) regular place of business is in this Commonwealth and one (1) regular place of business is outside this Commonwealth, the asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, the policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.

(m) The numerator of the receipts factor includes all other receipts derived from sales as determined pursuant to the provisions set forth in KRS 136.070(3)(d)1., 2., and 3.

(n) 1. All receipts that would be assigned under this section to a state in which the financial institution is not taxable shall be included in the numerator of the receipts factor, if the financial institution's commercial domicile is in this Commonwealth.

2. For purposes of subparagraph 1. of this paragraph, "taxable" means either:

a. That a financial institution is subject in another state to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a corporate stock tax including a bank shares tax, a single business tax, an earned surplus tax, or any tax which is imposed upon or measured by net income; or

b. That another state has statutory authority to subject the financial institution to any of the taxes in subdivision a. of this subparagraph, whether in fact the state does or does not impose the tax.

Section 330. KRS 136.535 is amended to read as follows:

(1) As used in this section:

(a) "Administration" means the process of managing an account. The process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement and proceeding against the borrower or the security interest if the borrower is in default. The activity is located at the regular place of business that oversees this activity;

(b) "Approval" means the procedure whereby employees or the board of directors of the financial institution make the final determination whether to enter into the agreement. The activity is located at the regular place of business which the financial institution's employees making the final determination are regularly connected with or working out of, regardless of where the services of the employees were actually performed. If the board of directors makes the final determination, the activity is located at the commercial domicile of the financial institution;

(c) "Investigation" means the procedure whereby employees of the financial institution determine the credit worthiness of the customer as well as the degree of risk involved in making a particular agreement. The activity is located at the regular place of business which the financial institution's employees making the investigation are regularly connected with or working out of, regardless of where the services of the employees were actually performed;

(d) "Negotiation" means the procedure whereby employees of the financial institution and its customer determine the terms of the agreement, including the amount, duration, interest rate, frequency of repayment, currency denomination, and security required. The activity is located at the regular place of business which the financial institution's employees are regularly connected with or out of, regardless of where the services of the employees were actually performed;

(e) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower; and

(f) "Solicitation" occurs when:

1. An employee of the financial institution initiates contact with the customer. The activity is located at the

regular place of business which the financial institution's employee making the contact is regularly connected with or working out of, regardless of where the services of the employee were actually performed; or

2. The customer initiates the contact with the financial institution. If the customer's initial contact was not at a regular place of business of the financial institution, the regular place of business, if any, where the solicitation occurred is determined by the facts in each case.

(2) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the financial institution that is located or used within this Commonwealth during the taxable year, the average value of the financial institution's real and tangible personal property owned that is located or used within this Commonwealth during the taxable year, and the average value of the financial institution's loans and credit card receivables that are located within this Commonwealth during the taxable year, and the denominator of which is the average value of all such property located or used within and without this Commonwealth during the taxable year. Average value of property is determined under subsection (4) of this section.

(3) (a) The value of real property and tangible personal property owned by the financial institution is the original cost or other basis of property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged off in whole or in part for federal income tax purposes, the portion of the loan charged off is not outstanding. A specifically-allocated reserve established pursuant to regulatory or financial accounting guidelines which is treated as charged off for federal income tax purposes shall be treated as charged off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the receivable charged off is not outstanding.

(4) The average value of property owned by the financial institution is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two (2). If averaging on this basis does not properly reflect average value, the ***department***[~~cabinet~~] may require averaging on a more frequent basis. The financial institution may request permission from the ***department***[~~cabinet~~] to average on a more frequent basis. When averaging on a more frequent basis is authorized by the ***department***[~~cabinet~~], the same method of valuation shall be used consistently by the financial institution with respect to property within and without this Commonwealth and on all subsequent returns unless the financial institution receives prior permission from the ***department***[~~cabinet~~] or the ***department***[~~cabinet~~] requires a different method of determining average value.

(5) (a) The average value of real property and tangible personal property that the financial institution has rented from another and which is not treated as property owned by the financial institution for federal income tax purposes shall be determined annually by multiplying the gross rents payable during the taxable year by eight (8).

(b) Where the use of the general method described in this subsection results in inaccurate valuations of rented property, any other method which properly reflects the value may be adopted by the ***department***[~~cabinet~~] or by the financial institution when approved in writing by the ***department***[~~cabinet~~]. Once approved, the alternative method of valuation shall be used on all subsequent returns unless the financial institution receives prior approval from the ***department***[~~cabinet~~] or the ***department***[~~cabinet~~] requires a different method of valuation.

(6) (a) Except as described in paragraph (b) of this subsection, real property and tangible personal property owned by or rented to the financial institution is considered to be located within this Commonwealth if it is physically located, situated, or used within this Commonwealth.

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this Commonwealth. The extent to which an aircraft shall be deemed to be used in this Commonwealth and the amount of value that is to be included in the numerator of this Commonwealth's property factor is determined by multiplying the average value of the aircraft by a fraction the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(7) (a) 1. A loan is considered to be located within this Commonwealth if it is properly assigned to a regular place of business of the financial institution within this Commonwealth.

2. A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the financial institution to a regular place of business without the Commonwealth shall be presumed to have been properly assigned if:

a. The financial institution has assigned, in the regular course of its business, the loan on its records to a regular place of business consistent with federal or state regulatory requirements;

b. The assignment on its records is based upon substantive contacts of the loan to the regular place of business; and

c. The financial institution uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

3. The presumption of proper assignment of a loan provided in subparagraph 2. of this paragraph may be rebutted upon a showing by the ***department***[~~cabinet~~], supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan did not occur at the regular place of business to which it was assigned on the financial institution's records. When the presumption has been rebutted, the loan shall then be located within this Commonwealth if the financial institution had a regular place of business within this Commonwealth at the time the loan was made and the financial institution fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan occurred outside this Commonwealth.

(b) For financial institutions with commercial domicile in this Commonwealth as defined in KRS 136.500, it shall be presumed, subject to rebuttal by the financial institution on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this Commonwealth.

(c) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis, and consideration shall be given to activities such as the solicitation, investigation, negotiation, approval, and administration of the loan as defined in subsection (1) of this section.

(8) Credit card receivables shall be treated as loans and shall be subject to the provisions of subsection (7) of this section.

(9) A loan that has been properly assigned to a state shall, absent any change of material fact, remain assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if that loan has a preponderance of substantive contacts to a regular place of business there.

Section 331. KRS 136.545 is amended to read as follows:

(1) On or before the March 15 following each taxable year, a return for the preceding taxable year shall be filed with the ***department***[~~cabinet~~] in the form and manner prescribed by the ***department***[~~cabinet~~], together with payment of any tax due.

(2) A return shall be filed by each financial institution.

(3) The return shall show the amount of taxes for the period covered by the return and other information necessary for the proper administration of KRS 136.500 to 136.575.

(4) The ***department***[~~cabinet~~] shall, upon written request received on or prior to the due date of the return and tax, grant an automatic extension of up to ninety (90) days for the filing of returns. An extension of time to file a return does not extend the payment of tax due, which shall be estimated by the financial institution and paid on or before the date specified in subsection (1) of this section.

(5) If the time for filing a return is extended, the financial institution shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax shown due on the return but not previously paid, from the time the tax was due until the return is actually filed with the ***department***[~~cabinet~~].

Section 332. KRS 136.550 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the financial institution, the excess shall be assessed by the ***department***[~~cabinet~~] within four (4) years from the date prescribed by law for the filing of a return including an extension of time for filing, except as provided in this subsection. A notice of the assessment shall be mailed to the financial institution.

(a) In the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time.

(b) In the case of a return wherein a financial institution understates its net capital or omits from net capital an amount properly includible therein or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net capital stated in the return, the excess may be assessed at any time within six (6) years after the return was filed.

(2) For the purpose of subsection (1) of this section, a return filed before the last day prescribed by law for the filing shall be considered as filed on the last day. The times provided for in subsection (1) of this section may be extended by agreement between the financial institution and the ***department***[~~cabinet~~].

Section 333. KRS 136.560 is amended to read as follows:

(1) Every financial institution shall keep records, receipts, invoices, and other pertinent papers in the form as the ***department***[~~cabinet~~] may require.

(2) Every financial institution that files the returns required under KRS 136.545 shall keep records for not less than six (6) years from the making of records unless the ***department***[~~cabinet~~] in writing authorizes their destruction at an earlier date.

Section 334. KRS 136.575 is amended to read as follows:

(1) As used in this section, "deposits" means all demand and time deposits, excluding deposits of the United States

government, state and political subdivisions, other financial institutions, public libraries, educational institutions, religious institutions, charitable institutions, and certified and officers' checks.

(2) Counties, cities, and urban-county governments may impose a franchise tax on financial institutions measured by the deposits in the institutions located within the jurisdiction of the county, city, or urban-county government at a rate not to exceed twenty-five thousandths of one percent (0.025%) of the deposits if imposed by counties and cities and at a rate not to exceed fifty thousandths of one percent (0.050%) of the deposits if imposed by urban-county governments. The amount and location of deposits in the financial institutions shall be determined by the method used for filing the summary of deposits report with the Federal Deposit Insurance Corporation. The accounting method used to allocate deposits for completion of the summary of deposits shall be the same as has been utilized in prior periods. Any deviation from prior accounting methods may only be adopted with the permission of the ***department***[~~cabinet~~].

(3) By August 15, 1997, and annually thereafter, each financial institution shall file with the ***department***[~~cabinet~~], on a form prescribed by the ***department***[~~cabinet~~], a report of all deposits located within this Commonwealth as of the preceding June 30, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation. The ***department***[~~cabinet~~] shall review the report and certify to the local jurisdictions that have enacted the franchise tax by October 1 of each year the amount of deposits within the jurisdiction and amount of the tax due. The local taxing authority shall issue bills to the financial institution by December 1 and require payment, with a two percent (2%) discount by December 31, or without discount by January 31 of the next year.

(4) For calendar year 1996 only, each financial institution shall file with the ***department***[~~cabinet~~] on or before September 15, 1996, a report of all deposits located within this Commonwealth as of June 30, 1996, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation. The ***department***[~~cabinet~~] shall review the report after being given notice by the local jurisdiction that the tax under this section was enacted during 1996, and shall certify to the local jurisdiction the amount of deposits within the jurisdiction and the amount of tax due by March 1, 1997. The local taxing authority shall issue bills to the financial institution by May 1, 1997, and require payment with a two percent (2%) discount by May 31, 1997, or without discount by June 30, 1997.

(5) The local jurisdiction shall notify the ***department***[~~cabinet~~] of the tax rate imposed upon the enactment of the tax. The local jurisdiction shall also notify the ***department***[~~cabinet~~] of any subsequent rate changes.

Section 335. KRS 136.980 is amended to read as follows:

If any tax imposed by KRS 136.330 to 136.395, 299.530 and 304.4-030, whether assessed by the ***department***[~~cabinet~~], or the taxpayer, or any installment or portion of any tax is not paid on or before the date prescribed for its payment, there shall be collected interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the ***department***[~~cabinet~~].

Section 336. KRS 136.990 is amended to read as follows:

(1) Any corporation that fails to pay its taxes, penalty, and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars ($50) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

(2) Any public service corporation, or officer thereof, that willfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars ($1,000), and fifty dollars ($50) for each day the reports are not made after April 30 of each year.

(3) Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(4) Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars ($1,000) for each offense.

(5) Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars ($100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS Chapter 424.

(6) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(7) Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden by this chapter, the penalty shall be not less than ten dollars ($10) nor more than five hundred dollars ($500).

(8) The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections (4) to (6) of this section.

(9) Any person who violates any of the provisions of KRS 136.073 or KRS 136.090 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(10) If the tax imposed by KRS 136.070 or KRS 136.073, whether assessed by the ***department***[~~cabinet~~] or the taxpayer, or any installment or portion of the tax, is not paid on or before the date prescribed for its payment, interest shall be collected upon the nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the ***department***[~~cabinet~~].

Section 337. KRS 137.130 is amended to read as follows:

(1) Every person engaged in the transportation of crude petroleum in this state from receptacles located at the place of production in this state shall be considered a transporter of crude petroleum. Every transporter of crude petroleum shall make a verified report to the ***Department of*** Revenue[~~ Cabinet~~] by the twentieth day of the month succeeding each month in which crude petroleum is so received for transportation, showing the quantity of each kind or quality of crude petroleum so received from each county in this state and the market value of the crude petroleum on the first business day after the tenth day of the month in which the report is made. The report shall show any sales of crude petroleum so received, the quantity of crude petroleum in each sale, the date of each sale, and the market price of the crude petroleum on each date of sale for the preceding month. This report shall be made upon blanks furnished and prescribed by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] may require additional reports from time to time, on blanks prepared by it, from all producers and transporters of crude petroleum.

(2) Every person required to report under subsection (1) of this section shall register as a transporter of crude petroleum in the office of the county clerk in each county in which such business is carried on by him, in a book which the ***department***[~~cabinet~~] shall provide, showing the name, residence and place of business of the transporter. The county clerk shall immediately certify to the ***department***[~~cabinet~~] a copy of each registration as made.

Section 338. KRS 137.140 is amended to read as follows:

Every transporter of crude petroleum shall be liable for the taxes imposed under KRS 137.120 on all crude petroleum received by him. He shall collect from the producer, in money or crude petroleum, the taxes imposed. If collection is in crude petroleum, the transporter may sell the same and pay the taxes by check or cash to the ***Department of*** Revenue[~~ Cabinet~~] or sheriff, as provided in KRS 137.150 and 137.160.

Section 339. KRS 137.150 is amended to read as follows:

Any county imposing a tax under KRS 137.120 shall immediately after the levy of the tax give notice thereof to each transporter of crude petroleum registered in the county. The transporter shall, after the first day of the month immediately following such notice, proceed as provided in KRS 137.140 to collect the county tax and pay it to the sheriff of the county in the manner and at the time payment of such taxes is required to be made to the ***Department of*** Revenue[~~ Cabinet~~]. Each county imposing the tax shall, upon the fixing of the levy, certify the same to the ***department***[~~cabinet~~], which shall make the assessment for the county tax in the same manner and at the same value as provided for the state tax, which shall be certified to the county for collection.

Section 340. KRS 137.160 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] has received the reports provided for in KRS 137.130, it shall, upon such reports and such other reports and information as it may secure, assess the value of all grades or kinds of crude petroleum reported for each month.

(2) Where the report shows no sale of crude petroleum during the month covered by the report, the market value of crude petroleum on the first business day after the tenth day of the month in which the report is made shall be fixed by the ***department***[~~cabinet~~] as the assessed value of all crude petroleum covered by the report. Where the report shows that all crude petroleum reported has been sold during the month covered by the report, the market price of such crude petroleum on each day of sale shall be the assessed value of all crude petroleum sold on that date of sale, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on such sales. If the report shows that part of the crude petroleum reported has been sold and part remains unsold, the market price of the crude petroleum on the first business day after the tenth day of the month following the month covered by the report shall be fixed as the assessed value of the portion of the crude petroleum unsold, the market price of the crude petroleum on each day of sale shall be the assessed value of the portion sold, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on the sold and unsold crude petroleum. The ***department***[~~cabinet~~], in making its assessments, shall take into consideration transportation charges.

(3) The ***department***[~~cabinet~~] shall, by the last day of the month in which the reports are required to be made, notify each transporter of his assessment, and certify the assessment to the county clerk of each county that has reported the levy of a county tax under KRS 137.150. The county clerk shall immediately deliver a copy thereof to the sheriff for collection of the county tax. The transporter so notified of the assessment shall have the right to an appeal to the Kentucky board of tax appeals.

Section 341. KRS 137.180 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall, on or before thirty (30) days following the close of each duly licensed race meeting, furnish the ***Department of*** Revenue[~~ Cabinet~~] a verified report of the number of days on which races were conducted on that race track during the race meeting, together with a statement of its daily mutuel handle for each day during the meeting, and at the same time pay to the state the tentatively correct amount of the license tax apparently due it pursuant to KRS 137.170.

(2) On or before December 31 in each year, each person engaged in the business of conducting a race track shall file a final report with the ***Department of*** Revenue[~~ Cabinet~~] giving in summary form a recapitulation of the information furnished by the previous tentative reports filed during the year, computing the final license tax due the state for the year ending November 30 and showing the amount of tentative license tax actually paid during the year. Any balance of license tax due

the state as shown on the final report shall be paid at the same time as the filing. Any overpayment in license tax disclosed by the final report shall, at the option of the taxpayer, be promptly refunded by the state or credited against the license tax to be due from the taxpayer in the following year.

(3) Any person who violates any provision of this section or KRS 137.170 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) upon the unpaid amount from the date prescribed for its payment until payment is actually made to the ***department***~~[cabinet]~~.

Section 342. KRS 137.990 is amended to read as follows:

(1) (a) Any person who engages in any business or sells or offers to sell or has on hand for the purpose of sale any article or exercises any privilege for which a license is required or imposed by KRS 137.115 before procuring the license and paying the tax shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each offense, unless otherwise specifically provided;

(b) Any county clerk who violates any of the provisions of KRS 137.115, or any administrative regulation promulgated by the ***Department of*** Revenue~~[Cabinet]~~ thereunder, shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) for each offense; and

(c) Any person who makes a false statement in securing a license under KRS 137.115 shall be deemed guilty of a misdemeanor.

(2) (a) Any person who violates any provision of KRS 137.120 to 137.160 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180; and

(b) Any person who violates any of the provisions of KRS 137.120 to 137.160 may be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(3) Any person who violates any of the provisions of KRS 137.170 or 137.180 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail not more than thirty (30) days, or both so fined and imprisoned. If the offender is a corporation, the principal officer or the officer or employee directly responsible for the violation, or both, shall be punished as provided in this subsection.

Section 343. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

(1) ***"Department"***~~["Cabinet"]~~ means the ***Department of*** Revenue~~[Cabinet]~~.

(2) "Manufacturer" means any person who manufactures or produces cigarettes within or without this state.

(3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale.

(4) "Sale at retail" shall mean a sale to any person for any other purpose other than resale.

(5) "Cigarettes" shall mean and include any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(6) "Sale" or "sell" shall mean any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, and distribution in any manner or by any means whatsoever.

(7) "Tax evidence" shall mean and include any stamps, metered impressions or other indicia prescribed by the ***department***~~[cabinet]~~ by regulation as a means of denoting the payment of tax.

(8) "Person" shall mean and include any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, Commonwealth of Kentucky or any of its political subdivisions, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular.

(9) "Resident wholesaler" shall mean any person who purchases at least seventy-five percent (75%) of all cigarettes purchased by him directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where he attaches cigarette tax evidence, or receives untaxed cigarettes.

(10) "Nonresident wholesaler" shall mean any person who purchases cigarettes directly from the manufacturer and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid.

(11) "Sub-jobber" shall mean any person who purchases cigarettes from a wholesaler licensed under KRS 138.195 on which the Kentucky cigarette tax has been paid and makes them available to retailers for resale. No person shall be deemed to make cigarettes available to retailers for resale unless such person certifies and establishes to the satisfaction of the ***department***~~[cabinet]~~ that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes for resale in the regular course of business.

(12) "Vending machine operator" shall mean any person who operates one (1) or more cigarette vending machines.

(13) "Transporter" shall mean any person transporting untax-paid cigarettes obtained from any source to any destination within this state, other than cigarettes transported by the manufacturer thereof.

(14) "Unclassified acquirer" shall mean any person in this state who acquires cigarettes from any source on which the Kentucky cigarette tax has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195.

Section 344. KRS 138.146 is amended to read as follows:

(1) The cigarette tax imposed by KRS 138.130 to 138.205 shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

(2) The tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the cigarettes are received by him. A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The stamp, so affixed, shall be prima facie evidence of payment of tax. Unless such stamps have been previously affixed, they shall be so affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state. The evidence of tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state. The evidence of tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by him.

(3) The ***department***[~~cabinet~~] shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of such cigarette tax evidence, and the method and manner that such evidence shall be affixed to the cigarettes. All cigarette tax evidence prescribed by the ***department***[~~cabinet~~] shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or other mark on the cigarette tax evidence. The ***department***[~~cabinet~~] shall maintain for at least three (3) years information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.

(4) Units of cigarette tax evidence shall be sold at their face value, but the ***department***[~~cabinet~~] shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents ($0.30) face value for each three dollars ($3) of tax evidence purchased at face value. The ***department***[~~cabinet~~] shall have the power to withhold compensation from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.

(5) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing such evidence from the ***department***[~~cabinet~~]. Such tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person. Unaffixed tax evidence may be returned to the ***department***[~~cabinet~~] for credit or refund for any reason satisfactory to the ***department***[~~cabinet~~].

(6) In the event any retailer shall receive into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, he shall within twenty-four (24) hours notify the ***department***[~~cabinet~~] of such fact. Such notice shall be in writing, and shall give the name of the person from whom such cigarettes were received, and the quantity of such cigarettes, and such written notice may be given to any field agent of the ***department***[~~cabinet~~]. The written notice may also be directed to the ***commissioner of the Department of Revenue***[~~secretary of revenue~~], Frankfort, Kentucky. If such notice is given by means of the United States mail, it shall be sent by certified mail. Any such cigarettes shall be retained by such retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection. The retailer may, at his option, pay the tax due on any such cigarettes according to rules and regulations to be prescribed by the ***department***[~~cabinet~~], and proceed to sell the same after such payment.

(7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed, but any licensed wholesaler, licensed sub-jobber, or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

Section 345. KRS 138.155 is amended to read as follows:

In lieu of the affixing of cigarette tax evidence to individual packages of cigarettes as the means of denoting payment of the cigarette tax imposed by KRS 138.130 to 138.205, the ***department***[~~cabinet~~] may prescribe, by rules and regulations sufficient to protect the revenue of this state, a method of reporting, payment and collection of such tax, without the affixing of tax evidence to individual packages of cigarettes. In the event such a system is adopted no compensation for reporting for the purpose of such tax in excess of two percent (2%) of the tax due shall be allowed to any person.

Section 346. KRS 138.165 is amended to read as follows:

(1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-paid cigarettes held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.

(2) Whenever any peace officer of this state, or any representative of the ***department***[~~cabinet~~], finds any untax-paid cigarettes within the borders of this state in the possession of any person other than a licensee authorized to possess untax-paid cigarettes by the provisions of KRS 138.130 to 138.205, such cigarettes shall be immediately seized and stored in a depository to be selected by the officer or agent. At the time of seizure, the officer or agent shall deliver to the person in

whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the ***commissioner of the Department of Revenue***[~~secretary of revenue~~], Frankfort, Kentucky. Immediately upon seizure, the officer or agent shall notify the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] of the nature and quantity of the goods seized. Any seized goods shall be held for a period of twenty (20) days and if after such period no person has claimed the cigarettes as his property, the ***commissioner***[~~secretary~~] shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All proceeds, less the cost of sale, from the sale shall be paid into the Kentucky State Treasury for general fund purposes.

(3) It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the ***department***[~~cabinet~~] finds any vending machine within the borders of this state dispensing untax-paid cigarettes, he shall immediately seize the vending machine and store the same in a safe place selected by him. He shall thereafter proceed as provided in subsection (2) of this section and the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] shall cause the vending machine to be sold, and the proceeds applied, as set out in subsection (2) of this section.

(4) No cigarettes, on which the tax imposed by KRS 138.130 to 138.205 has not been paid, shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the ***department***[~~cabinet~~] finds any such motor vehicle, he shall immediately seize the motor vehicle and store it in a safe place specified by him. He shall thereafter proceed as provided in subsection (2) of this section and the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] shall cause the motor vehicle to be sold, and the proceeds applied, as set out in subsection (2) of this section.

(5) The owner or any person having an interest in any goods, machines or vehicles seized as provided under subsections (1) to (4) of this section may apply to the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the owner was without fault in the possession, dispensing or transportation of the untax-paid cigarettes, he shall remit the forfeiture. In the event he determines that the possession, dispensing or transportation of untax-paid cigarettes was willful or intentional he may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by him of not more than fifty percent (50%) of the value of the thing forfeited. All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.

(6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky Board of Tax Appeals in the manner provided by law.

Section 347. KRS 138.195 is amended to read as follows:

(1) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the ***department***[~~cabinet~~] as set out in this section.

(2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars ($25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.

(5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the ***department***[~~cabinet~~].

(6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette

tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured.

(7) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the ***department***[~~cabinet~~] from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.

(8) The ***department***[~~cabinet~~] may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state. Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the ***department***[~~cabinet~~] at any reasonable time shall be grounds for the revocation of any license issued by the ***department***[~~cabinet~~], after due notice and a hearing by the ***department***[~~cabinet~~]. The ***commissioner of the Department of Revenue***[~~secretary of revenue~~] may assign a time and place for such hearing and may appoint a conferee who shall conduct a hearing, receive evidence and hear arguments. Such conferee shall thereupon file a report with the ***commissioner***[~~secretary~~] together with a recommendation as to the revocation of such license. From any revocation made by the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] on such report, the licensee may prosecute an appeal to the Kentucky Board of Tax Appeals as provided by law. Any person whose license has been revoked for the willful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section, or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.

(9) No license issued pursuant to the provisions of this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.

(10) Every manufacturer located or doing business in this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit reports of such shipments as the ***department***[~~cabinet~~] may require by regulation.

(11) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.

Section 348. KRS 138.205 is amended to read as follows:

(1) Any licensee under KRS 138.195 who violates any provision of KRS 138.130 to 138.205, or any administrative regulation promulgated under them, shall become indebted to the Commonwealth in the sum of five hundred dollars ($500) for each violation. The civil penalty may be collected by action in the Franklin Circuit Court.

(2) Any manufacturer who fails to keep written records, and submit reports to the ***department***[~~cabinet~~], as required by the provisions of subsection (10) of KRS 138.195, shall become indebted to the Commonwealth in the sum of one thousand dollars ($1,000) for each violation. The penalty may be enforced by action of the Franklin Circuit Court.

(3) Any manufacturer doing business within this state without having complied with the provisions of KRS Chapter 271B as to designation of process agent shall, by so doing of business, be deemed to have made the Secretary of State its agent for the service of process in any civil action instituted in the Franklin Circuit Court for the recovery of the penalty. In any action, the complaint shall set forth the post office address of the home office of the manufacturer.

(4) Any nonresident person licensed under the provisions of KRS 138.195 shall, at the time of application for license, designate some resident of this state as a process agent for the purpose of service of civil process in any civil action originating in any court of this Commonwealth, and service upon the person so designated shall be sufficient to bring the nonresident person before any court of this Commonwealth for all purposes.

(5) Any person acting in the capacity of a licensee under the provisions of KRS 138.130 to 138.205 without having secured a license as provided in KRS 138.195 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 349. KRS 138.207 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] may by regulation refund or waive the cigarette tax imposed by the provisions of this chapter on any cigarettes donated to hospitals or other eleemosynary institutions for the benefit of, or for the use of, patients or inmates of such institutions. The ***department***[~~cabinet~~] shall also prescribe the method by which cigarettes donated shall be transferred to any such institutions.

Section 350. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the ***department***[~~cabinet~~] in a manner and form prescribed by the ***department***[~~cabinet~~], supported by proper evidence which in the sole judgment of the ***department***[~~cabinet~~] substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

- (a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;
- (b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;
- (c) Distributing gasoline from bulk storage in this state;
- (d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;
- (e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the ***department***[~~cabinet~~], the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or
- (f) Regularly exporting gasoline or special fuels;

(3) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

- (b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;
- (c) "Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle. Diesel fuel does not include unblended kerosene, No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;
- (d) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

- (a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and
- (b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax

thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the ***Department of*** Revenue[~~ Cabinet~~] from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the ***department***[~~cabinet~~];

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle; and

(15) "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

Section 351. KRS 138.220 is amended to read as follows:

(1) An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the third decimal when computed on a per gallon basis shall be paid on all gasoline and special fuel received in this state. Except as provided by KRS Chapter 138, no other excise or license tax shall be levied or assessed on gasoline or special fuel by the state or any political subdivision of the state. The tax herein imposed shall be paid by the dealer receiving the gasoline or special fuel to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline or special fuel sold in this state. Nothing herein contained shall authorize or require the collection of the tax upon any gasoline or special fuel after it has been once taxed under the provisions of this section, unless such tax was refunded or credited.

(2) In addition to the excise tax provided in subsection (1) of this section, there is hereby levied a supplemental highway user motor fuel tax to be paid in the same manner and at the same time as the tax provided in subsection (1) of this section. Such tax shall be calculated, starting with the quarter beginning July 1, 1986, by taking the excise tax resulting from the calculation provided for in subsection (1) of this section and adjusting such tax calculated, for each quarter, to reflect decreases in the average wholesale price, as defined in KRS 138.210(10)(a). The adjustment shall be made by calculating the difference between the average wholesale price computed for the quarter beginning October 1, 1985, as provided for in subsection (3) of this section, and the average wholesale price computed for the quarter beginning July 1, 1986 and each succeeding quarter, as provided for in subsection (3) of this section. In the event of a decrease in the average wholesale price computed for the quarter beginning October 1, 1985, and ending December 31, 1985, and the average wholesale price computed for the quarter beginning July 1, 1986, and each succeeding quarter, the excise tax shall be adjusted upward for that quarter. The upward adjustment shall equal one-half (1/2) of the decrease between the two (2) quarterly periods, rounded to the third decimal. In no case shall the adjustment provided by this subsection result in a supplemental

highway user motor fuel tax greater than five cents ($0.05) on gasoline or two cents ($0.02) on special fuel and, notwithstanding any adjustment which may be calculated as provided by this subsection, in no case shall the supplemental highway user motor fuel tax for any quarter be less than the previous quarter. The supplemental highway user motor fuel tax provided by this subsection and the provisions of subsection (1) of this section shall constitute the tax on motor fuels imposed by KRS 138.220.

(3) Effective with the calendar quarter beginning July 1, 1980, the ***department***[~~cabinet~~] shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter.

(4) Dealers with a tax-paid gasoline or special fuel inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. The ***department***[~~cabinet~~] shall promulgate such rules and regulations to properly administer this provision.

Section 352. KRS 138.224 is amended to read as follows:

It shall be presumed that all untaxed motor fuels are subject to the tax levied under KRS 138.220 unless the contrary is established pursuant to KRS 138.210 to 138.500 or administrative regulations promulgated thereunder by the ***Department of*** Revenue[~~Cabinet~~]. The tax shall be paid by the licensed dealer to the ***department***[~~cabinet~~]. The burden of proving that any motor fuel is not subject to tax shall be upon the dealer or any person who imports, causes to be imported, receives, uses, sells, stores, or possesses untaxed motor fuel in this state. Any dealer or other person who imports, causes to be imported, receives, uses, sells, stores, or possesses untaxed motor fuels but fails to comply with all statutory and regulatory restrictions applicable to the fuel shall be jointly and severally liable for payment of the tax due on the fuel. A person's liability shall not be extinguished until the tax due has been paid to the ***department***[~~cabinet~~].

Section 353. KRS 138.226 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall administer the taxes provided under KRS 138.210 to 138.500, except KRS 138.463 and 138.4631 and may prescribe, adopt and enforce administrative regulations relating to the administration and enforcement thereof.

(2) The ***department***[~~cabinet~~] shall, upon the request of the officials to whom are entrusted the enforcement of the motor fuels tax law of any other state, the United States, the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the manufacture, receipt, sale, use, transportation, shipment or delivery by any person of motor fuels, provided such other state or states provide for the furnishing of like information to this state.

Section 354. KRS 138.230 is amended to read as follows:

Every dealer receiving gasoline or special fuel in this state shall keep, and preserve for five (5) years, an accurate record of all receipts and of all production, refining, manufacture, compounding, use, sale, distribution and delivery of gasoline and special fuel, together with invoices, bills of lading and other pertinent records and papers required by the ***Department of*** Revenue[~~Cabinet~~]. Every person purchasing gasoline or special fuel from a dealer for resale shall keep, and preserve for a period of five (5) years, a record of all such gasoline or special fuel so purchased and sold or used, and the amount of tax paid to the dealers as part of the purchase price, together with delivery tickets, invoices, bills of lading and such other records as the ***department***[~~cabinet~~] shall require.

Section 355. KRS 138.240 is amended to read as follows:

(1) Every gasoline dealer and every special fuels dealer, or the treasurer or other proper officer or agent of every such dealer, shall, by the twenty-fifth day of each month, transmit to the ***Department of*** Revenue[~~ Cabinet~~] reports on the forms the ***department***[~~cabinet~~] may prescribe, of the total number of gallons of gasoline and special fuel received in this state during the next preceding calendar month. This report shall include the following information:

  (a) An itemized statement of the number of gallons received that have been produced, refined, manufactured, or compounded by the dealer in this state during the next preceding calendar month; and

  (b) An itemized statement of the number of gallons received by the dealer in this state from any source during the next preceding calendar month, as shown by shippers' invoices, other than the gasoline and special fuel falling within the provisions of paragraph (a) of this subsection, together with a statement showing the date of receipt, the name of the person from whom purchased, the date of receipt of each shipment, the point of origin and the point of destination, the quantity of each purchase or shipment, the name of the carrier, the initials and number of each tank car, the date of receipt, and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge, or vessel if shipped by water.

(2) The reports required by subsection (1) of this section shall also contain an itemized statement of the number of gallons received by the dealer during the preceding calendar month of:

  (a) Gasoline and special fuels sold to the United States government, including sales or deliveries to others who sell or deliver the gasoline or special fuels to the United States government, for use exclusively in equipment or vehicles owned or leased by the United States government;

  (b) Gasoline and special fuels sold for delivery in this state in transport truck, tank car, or cargo lots to licensed bonded dealers. The statement shall give a record of all such transport truck, tank car, or cargo sales, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge, or vessel, and the number of gallons contained therein if shipped by water, and the name of the person to whom sold, point of shipment, and point of delivery;

(c) Gasoline and special fuels lost through accountable losses;

(d) Gasoline and special fuel exported from this state to any other state in transport truck, tank car or cargo lots;

(e) Gasoline or special fuel delivered upon or immediately adjacent to a river or stream, if:

1. The gasoline or special fuel is or will be delivered into the fuel supply tank of a commercial ship or vessel which has a valid certificate of documentation issued by the United States Coast Guard; and

2. All the fuel will be used exclusively in the operation of a commercial ship or vessel.

(f) Special fuel delivered to a railroad company principally engaged in the commercial transportation of property for others as a common carrier or in the conveyance of persons for hire, if the railroad company is the holder of a Kentucky motor fuels tax refund permit and certifies that the fuel is to be used exclusively for the purpose of powering locomotives and unlicensed company vehicles or equipment for nonhighway use. Railroad company as used herein shall not include any company described in KRS 136.120(4)(a) in effect on August 1, 1988; and

(g) Special fuels used in unlicensed vehicles or equipment by licensed special fuels dealers for nonhighway purposes related to the distribution of gasoline or special fuels to others.

(3) All gasoline and special fuel gallons received or distributed by a dealer from marine terminal, refinery or pipeline terminal storage in this state shall be reported at sixty (60) degrees Fahrenheit.

Section 356. KRS 138.250 is amended to read as follows:

(1) Any person who produces, refines, manufactures or compounds gasoline or special fuel in this state shall, by the twenty-fifth day of each month, file a report with the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by it, covering the next preceding calendar month, showing the number of gallons of gasoline and special fuels at sixty (60) degrees Fahrenheit produced, refined, manufactured or compounded, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and received and the number of gallons withdrawn at sixty (60) degrees Fahrenheit from refinery storage and shipped to points outside of this state, and the number of gallons at sixty (60) degrees Fahrenheit withdrawn from refinery storage and shipped to points within this state upon which the tax has not been paid. This report shall give in detail such information as the ***department***[~~cabinet~~] may require, regarding each separate shipment, the date of shipment, the number of gallons at sixty (60) degrees Fahrenheit in each shipment, the name of owner and license number of truck if shipped by transport truck, the initial and number of tank car if shipped by rail, the name and owner of barge if shipped by water, the name and address of person to whom shipped, the point of shipment, the point of destination and the name of carrier to whom delivered for transportation to destination.

(2) Any person who imports and stores gasoline or special fuel in any marine or pipeline terminal storage in this state, shall by the twenty-fifth day of the month, file a report with the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by it, covering the next preceding calendar month, showing the number of gallons of gasoline and special fuels at sixty (60) degrees Fahrenheit unexported and stored, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and received, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and shipped to points outside of this state, and the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and shipped to points within this state, upon which the tax has not been paid. This report shall give in detail such information as the ***department***[~~cabinet~~] may require, regarding each separate shipment, the date of shipment, the number of gallons at sixty (60) degrees Fahrenheit in each shipment, the name of owner and license number of truck if shipped by transport truck, the initial and number of tank car if shipped by rail, the name and owner of barge if shipped by water, the name and address of person to whom shipped, the point of shipment and point of destination, and the name of carrier to whom delivered for transportation to destination.

(3) There shall be allowed a monthly deduction for evaporation, shrinkage or unaccountable losses while in storage, of that number of gallons equal to the actual loss of gasoline or special fuel so sustained out of the total number of gallons of gasoline or special fuel stored in any marine terminal, refinery or pipeline terminal, except that such deduction may not in any event exceed three-fourths of one percent of the total number of gallons of gasoline or special fuel stored in any marine terminal, refinery or pipeline terminal. The remaining gasoline and special fuel placed in storage must be fully accounted for as in physical inventory, accountable loss, withdrawn for export or withdrawn from storage and received for taxable purposes.

(4) The number of gallons of gasoline or special fuel added to marine, pipeline or refinery storage shall be determined by the ***department***[~~cabinet~~] by actual measurement of terminal storage tanks in the manner it deems necessary.

Section 357. KRS 138.260 is amended to read as follows:

Every transportation company and every other person transporting gasoline or special fuel from without this state to points within this state, or between points within this state, shall report to the ***Department of*** Revenue[~~ Cabinet~~] on forms prescribed by the ***department***[~~cabinet~~]. The reports shall give the name and address of each person to whom deliveries of gasoline or special fuel have been made, the name and address of the original consignee if deliveries are made to any other than the original consignee, the name and address of the consignor, the point of origin, the point of delivery, the date of delivery, the number and initials of each tank car if shipped by rail, the quantity of each shipment and delivery in gallons, the manner of shipment and delivery, and such other information as the ***department***[~~cabinet~~] may require relative to the transportation and delivery of such fuel. The reports shall include intracity switching movements in tank cars or otherwise. The reports shall be made under oath and shall be filed by the twenty-fifth day of each month, covering all such deliveries made within this state during the preceding calendar month.

Section 358. KRS 138.270 is amended to read as follows:

(1) (a) From the total number of gallons of gasoline and special fuel received by the dealer within this state during the next preceding calendar month, deductions shall be made for the total number of gallons received by the dealer within this state that were sold or otherwise disposed of during the next preceding calendar month as set forth in subsection (2) of KRS 138.240.

(b) To cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, and handling and reporting the tax, each dealer shall be allowed compensation equal to two and one-fourth percent (2.25%) of the net tax due the Commonwealth pursuant to KRS 138.210 to 138.500 before all allowable tax credits, except the credit authorized pursuant to KRS 138.358. No compensation shall be allowed if the completed tax return and payment are not submitted to the ***Department of*** Revenue[~~ Cabinet~~] within the time prescribed by KRS 138.210 to 138.500.

(2) The tax imposed by KRS 138.220(1) and (2) shall be computed on the number of gallons remaining after the deductions set forth in subsection (1) of this section have been made, and shall constitute the amount of tax payable for the next preceding calendar month.

(3) Notwithstanding any other provision of this chapter to the contrary, any person who shall remit to the ***department***[~~cabinet~~], by the twenty-fifth day of the next month, an estimated tax due amount equal to not less than ninety-five percent (95%) of his tax liability, as finally determined for the report month, shall not be required to file the monthly reports required by this chapter until the last day of the month following the report month, and shall be permitted to claim as a credit against the tax liability shown due on the report the estimated tax due amount so paid.

Section 359. KRS 138.280 is amended to read as follows:

(1) The reports required by KRS 138.240 shall be accompanied by a certified or cashier's check, payable to the State Treasurer, for the amount of tax due for the preceding calendar month, computed as provided in KRS 138.270; except that the ***department***[~~cabinet~~] may waive this requirement and accept the dealer's check where the dealer is of sound financial condition and has established a good record of compliance with the requirements of KRS 138.210 to 138.340.

(2) By virtue of the allowance provided by KRS 138.270 to dealers for collecting and remitting the tax, every dealer is a trust officer of the state.

Section 360. KRS 138.300 is amended to read as follows:

No dealer or other person shall fail or refuse to make the returns and pay the tax prescribed by KRS 138.220 to 138.280, or refuse to permit the ***Department of Revenue***[~~revenue cabinet~~] or its representatives appointed by the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] in writing to examine his records, papers, files and equipment pertaining to the taxable business. No person shall make an incomplete, false or fraudulent return, or do or attempt to do anything to avoid a full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due. No person shall fail to keep and preserve records of gasoline and special fuel manufactured, transported, received, used, sold or delivered or to make reports as required by KRS 138.230 to 138.280.

Section 361. KRS 138.310 is amended to read as follows:

(1) No person shall refine, produce, distill, manufacture, blend, compound, receive, use, sell, transport, store, or distribute any gasoline or special fuel upon which the tax due has not been paid or assumed or engage in the sale, storage or transportation of any gasoline or special fuel within this state upon which the tax has not been paid unless he is the holder of an uncanceled license issued by the ***Department of*** Revenue[~~ Cabinet~~] to engage in the business.

(2) Any transporter, other than a regularly licensed gasoline or special fuel dealer, transporting gasoline or special fuel by motor vehicle shall have plainly painted on the vehicle the name, address, and permit number of the transporter.

(3) Any person who engages in the business of refining, producing, distilling, manufacturing, blending, compounding, receiving, using, selling, transporting, storing, or distributing gasoline or special fuel in this state as a dealer, storage operator, or transporter without holding an uncanceled license to engage in that business, or who without the license, refines, produces, distills, manufacturers, blends, compounds, receives, uses, sells, transports, stores, or distributes any gasoline or special fuel upon which the tax imposed by KRS 138.220 has not been reported and paid, shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 362. KRS 138.320 is amended to read as follows:

(1) To procure the license required by KRS 138.310, every dealer or transporter so required shall file with the ***Department of*** Revenue[~~ Cabinet~~] an application in such form and containing such information as the ***department***[~~cabinet~~] may deem necessary.

(2) If the dealer or transporter is a corporation organized under the laws of another state, it shall file with its application a certified copy of the certificate or license issued by the Secretary of State of this state showing that the corporation is authorized to transact business in this state.

(3) At the time of filing application for a license, a bond of the character stipulated and in the amount provided for in KRS 138.330 shall be filed with the ***department***[~~cabinet~~]. No license shall be issued upon any application unless accompanied by this bond.

(4) If application for such a license is filed by any person whose license has at any time previously been canceled for cause by the ***department***[~~cabinet~~], or if the ***department***[~~cabinet~~] is of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge for the real person in interest whose license or registration has previously been canceled for cause by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] may, after a hearing of which the applicant has been given five (5) days' notice in writing, and in which the applicant shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) The application in proper form having been accepted for filing, and the bond having been accepted and approved, the ***department***[~~cabinet~~] shall issue to the applicant a license, subject to cancellation as provided by KRS 138.340. The license shall not be assignable, and shall be valid only for the person in whose name it is issued, and shall be displayed conspicuously in the principal place of business of the dealer in this state.

(6) The ***department***[~~cabinet~~] shall keep and file all applications and bonds, with an alphabetical index thereof, together with a record of all licensed dealers or transporters. The ***department***[~~cabinet~~] shall publish and keep currently up to date a list of licensed dealers and transporters, and transmit a copy of list and all revisions thereof to all licensed dealers and transporters.

(7) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

Section 363. KRS 138.321 is amended to read as follows:

Any gasoline dealer or special fuels dealer having a license revoked for the violation of any of the provisions contained in KRS Chapter 138 may, within the discretion of the ***department***[~~cabinet~~], be denied the issuance of a gasoline dealer or special fuels dealer license, and any such licensee shall not have an interest in any such license, either disclosed or undisclosed, whether as an individual, partnership, corporation or otherwise.

Section 364. KRS 138.330 is amended to read as follows:

(1) Every dealer or transporter required to be licensed under KRS 138.310 shall file with the ***Department of*** Revenue[~~ Cabinet~~] a financial instrument in an amount not to exceed three (3) months' estimated liability as computed by the ***department***[~~cabinet~~] or five thousand dollars ($5,000) whichever is greater, or in the case of a new licensee in the minimum amount of five thousand dollars ($5,000) until such time as an estimated three (3) months' liability can be established, provided that the maximum amount of any financial instrument may be reduced to an amount sufficient in the opinion of the ***department***[~~cabinet~~], considering the financial rating and reputation of the company, to insure payment to the ***department***[~~cabinet~~] of the amount of tax, penalties and interest for which the dealer or transporter may become liable. The financial instrument shall be on a form and with a surety approved by the ***department***[~~cabinet~~]. The dealer or transporter shall be the principal obligor and the state the obligee. The financial instrument shall be conditioned upon the prompt filing of true reports by the dealer and transporter and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(2) If liability upon the financial instrument is discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the ***department***[~~cabinet~~] any surety on the financial instrument has become unsatisfactory or unacceptable, the ***department***[~~cabinet~~] may require the licensee to file a new financial instrument with satisfactory sureties in the same amount, failing which the ***department***[~~cabinet~~] shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If a new financial instrument is furnished as provided above, the ***department***[~~cabinet~~] shall cancel and surrender the financial instrument for which the new financial instrument is substituted.

(3) If upon hearing, of which the licensee shall be given five (5) days' notice in writing, the ***department***[~~cabinet~~] decides that the amount of the existing financial instrument is insufficient to insure payment to the state of the amount of tax, penalties, and interest for which the licensee is or may become liable, the licensee shall, upon the written demand of the ***department***[~~cabinet~~], file an additional financial instrument in the same manner and form with a surety thereon approved by the ***department***[~~cabinet~~], in any amount determined by the ***department***[~~cabinet~~] to be necessary, failing which the ***department***[~~cabinet~~] shall cancel the license of the licensee in accordance with the provisions of KRS 138.340.

(4) Any surety on a financial instrument furnished as required by this section shall be released from all liability to the state accruing on the financial instrument after the expiration of sixty (60) days from the date upon which the surety has lodged with the ***department***[~~cabinet~~] a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The ***department***[~~cabinet~~] shall promptly, upon receipt of a request, notify the licensee who furnished the financial instrument, and unless the licensee, before the expiration of the sixty (60) day period, files with the ***department***[~~cabinet~~] a new financial instrument with a surety satisfactory to the ***department***[~~cabinet~~] in the amount and form prescribed in this

section, the ***department***[~~cabinet~~] shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If an approved new financial instrument is filed, the ***department***[~~cabinet~~] shall cancel and surrender the financial instrument for which the new bond is substituted.

Section 365. KRS 138.340 is amended to read as follows:

(1) If any dealer or transporter required to be licensed under KRS 138.310 files a false report of the data or information required by KRS 138.210 to 138.280, or fails, refuses or neglects to file the reports required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210(2), or violates any other provision of this chapter, the license of the dealer or transporter may be revoked by the ***Department of*** Revenue[~~ Cabinet~~]. The licensee shall be notified by certified or registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Rules of Civil Procedure, or it may be served in that manner by an employee of the ***Department of*** Revenue[~~ Cabinet~~]. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation by the ***Department of*** Revenue[~~ Cabinet~~] to the Kentucky Board of Tax Appeals as provided by law, subject to the condition that the licensee has made bond sufficient in the opinion of the ***Department of*** Revenue[~~ Cabinet~~] to protect the Commonwealth from loss of revenue.

(2) The ***department***[~~cabinet~~] may cancel the license:

(a) Upon request in writing from the licensee, the cancellation to become effective sixty (60) days from the date of receipt of the request; or

(b) Upon determination that the licensee has had no reportable activity in Kentucky for at least the immediately preceding six (6) consecutive monthly reporting periods.

Section 366. KRS 138.341 is amended to read as follows:

(1) When gasoline or special fuel on which the tax has been paid pursuant to the provisions of KRS 138.210 to 138.340 has been used for the purpose of operating any aircraft engaged in the transportation of persons or property, the purchaser of the liquid fuel so used shall be reimbursed for the tax paid. No tax shall be refunded except that paid upon the fuel used exclusively in aircraft motors.

(2) No person shall be entitled to a refund hereunder unless he shall have first filed with the ***Department of*** Revenue[~~ Cabinet~~] a bond with approved surety in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the ***Department of*** Revenue[~~ Cabinet~~], conditioned upon faithful compliance with this section and KRS 138.342 and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) The right to receive any refund pursuant to subsection (1) of this section shall be assignable by the purchaser to the seller of the gasoline or special fuel if the seller has posted a bond with the ***department***[~~cabinet~~] and the aviation gasoline or special fuel purchased by the assignor is delivered directly into the fuel tank of aircraft owned or operated by him or his authorized agent. Any assignment shall be evidenced by noting upon the face and all copies of the retail sale invoice the following: "TAX REFUND ASSIGNED TO SELLER. Signed: (Purchaser or Agent.)"

Section 367. KRS 138.342 is amended to read as follows:

(1) Applications for refund pursuant to KRS 138.341 shall be made to the ***department***[~~cabinet~~] on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for the refund of tax paid on aviation motor fuel used during the calendar quarter or calendar year. Each application for a refund shall show the number of gallons of aviation motor fuel purchased during the preceding month; the date and quantity of each purchase; the vendor from whom the fuel was purchased; the number of gallons on which refund is claimed; and other information the ***department***[~~cabinet~~] may require.

(2) The ***department***[~~cabinet~~] shall audit the application and make other investigation it deems necessary to determine whether it constitutes a proper claim. When the ***department***[~~cabinet~~] is satisfied that a refund is proper, it shall authorize the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(3) When the ***department***[~~cabinet~~] finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the ***department***[~~cabinet~~] shall refuse to grant any refunds to the person making the false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of the finding.

Section 368. KRS 138.344 is amended to read as follows:

(1) Except as otherwise provided in KRS 138.220 to 138.500, any person who shall purchase gasoline or special fuel, on which the tax as imposed by KRS 138.220 has been paid, for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, or who shall purchase special fuels, on which the tax as imposed by KRS 138.220 has been paid, for consumption in unlicensed vehicles or equipment for nonhighway purposes shall be reimbursed for the tax so paid on the gasoline or special fuel. No refund shall be authorized unless applications and all necessary information are filed with the ***department***[~~cabinet~~] on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of the tax paid on the fuel. In lieu of the tax refund procedure, the tax on special fuels and the tax on gasoline

used for the purpose of operating or propelling stationary engines or tractors for agricultural purposes may be credited by the dealer to the purchaser as provided in KRS 138.358. The dealer and the purchases shall be subject to the same rules, conditions, and responsibilities as provided in KRS 138.344 to 138.355. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(2) The information to be required from the permit holder, by the ***department***[~~cabinet~~], in order that the refund may be allowed, shall be as follows:

(a) Name and address of permit holder .... permit number .....

(b) Total number of gallons purchased .... and total purchase price ..... (Invoices to be attached to refund application.)

(c) Total number of gallons used on highways .....

(d) Total number of gallons on which refund is claimed ..... (Line b minus line c.)

(e) Other information as the ***department***[~~cabinet~~] may require to reasonably protect the revenues of the Commonwealth.

Section 369. KRS 138.345 is amended to read as follows:

No person shall secure a refund of tax under KRS 138.344 unless the person is the holder of an unrevoked refund permit issued by the ***Department of*** Revenue[~~ Cabinet~~] before the purchase of the gasoline or special fuel, which permit shall entitle the person to make application for a refund under KRS 138.344 to 138.355. To procure a permit, every person shall file with the ***department***[~~cabinet~~] an application under oath, on forms furnished by the ***department***[~~cabinet~~], setting forth the information incident to the refunding of the tax paid on gasoline or special fuel as the ***department***[~~cabinet~~] may require. The properly completed and signed application shall be filed with the ***department***[~~cabinet~~] on or before the date the permit, if approved by the ***department***[~~cabinet~~], is to become effective.

Section 370. KRS 138.346 is amended to read as follows:

The ***department***[~~cabinet~~] may require the applicant to execute a corporate surety bond to be approved by the ***department***[~~cabinet~~], conditioned upon the payment of all taxes, penalties and fines for which such applicant may become liable under KRS 138.344 to 138.355. Such bond shall be in an amount equal to an applicant's one (1) year estimated refund claim, but not less than one thousand dollars ($1,000).

Section 371. KRS 138.347 is amended to read as follows:

(1) Each licensed gasoline and special fuel dealer shall, in accordance with the ***department's***[~~cabinet's~~] requirements, keep at his principal place of business in this state a complete record of all such gasoline and special fuel sold by him under gasoline refund invoices provided for in KRS 138.351, which records shall give the date of each such sale, the number of gallons sold, the name of the person to whom sold and the sale price.

(2) Every person to whom a refund permit has been issued under KRS 138.345 shall, in accordance with the ***department's***[~~cabinet's~~] requirements, keep at his residence or principal place of business in this state a record of each purchase of gasoline and special fuel from a licensed dealer or the dealer's authorized agent, the number of gallons purchased, the name of the seller, and the date of purchase.

(3) The records required to be kept under subsections (1) and (2) of this section shall at all reasonable hours be subject to inspection by the ***department***[~~cabinet~~] or by any person duly authorized by it. Such records shall be preserved and shall not be destroyed until five (5) years after the date the gasoline and special fuel to which they relate was sold and purchased.

Section 372. KRS 138.348 is amended to read as follows:

(1) The ***department***[~~cabinet~~] may require any dealer or any dealer's authorized agent to identify refund gasoline or special fuel sold by him by adding thereto any chemical or substance, which shall be furnished by the cabinet and used in the manner as prescribed by the ***department***[~~cabinet~~].

(2) The refund permit holder shall receive and store all the gasoline and special fuel in containers plainly marked with distinguishing letters "Refund Motor Fuel," or comparable letters prescribed by the ***Department of*** Revenue[~~ Cabinet~~], and shall keep the containers on his premises accessible to agents of the ***department***[~~cabinet~~] and separate from other gasoline and special fuel stored on his premises.

(3) The ***Department of*** Revenue[~~ Cabinet~~] may, within its discretion, issue a refund permit for a portable storage facility if the applicant satisfies the ***department***[~~cabinet~~] that the facility will be used exclusively for the purpose of fueling unlicensed vehicles or equipment at multiple locations for nonhighway purposes, and fueling the vehicles or equipment from a nonportable facility would not be practical.

(4) Every refund permit holder who uses on the public highways motor fuel of the type for which refund is claimed shall keep detailed records of all the motor fuel acquired, monthly odometer readings of all licensed motor vehicles owned or operated by the holder which use the fuel, and other records the ***Department of*** Revenue[~~ Cabinet~~] may, in writing, require to protect the revenues of the Commonwealth.

(5) Agents of the ***department***[~~cabinet~~] may go upon the premises of any permit holder or of any licensed gasoline or special fuel dealer or his authorized agent to make inspections to ascertain any matter connected with the operation of KRS

138.344 to 138.355 or the enforcement thereof. No agent shall enter the dwelling of any person without the occupant's consent or the authority from a court of competent jurisdiction.

Section 373. KRS 138.351 is amended to read as follows:

(1) When gasoline or special fuel is sold to a person who shall claim to be entitled to refund under KRS 138.344, the licensed dealer or his duly authorized agent who sells the gasoline or special fuel shall make out in duplicate a gasoline or special fuel refund invoice supplied or approved in writing by the ***department***[~~cabinet~~], which invoice shall have printed thereon that the liability to the Commonwealth of Kentucky for the excise tax imposed under KRS 138.220 with respect to the gasoline or special fuel has been assumed by the seller and that the excise tax has already been paid or will be paid by the seller when the same shall become payable, a statement setting forth the name and address of the purchaser, the number of gallons of gasoline or special fuel so sold, the proposed use for which the gasoline or special fuel is purchased, and other information as the ***department***[~~cabinet~~] shall require. The original gasoline or special fuel refund invoice shall be given to the purchaser, and the duplicate shall be retained by the seller.

(2) The refund permit holder shall file with the ***department***[~~cabinet~~] an application for refund on forms furnished by the ***department***[~~cabinet~~], stating the quantity of gasoline and special fuel used for the purposes as set out in KRS 138.344. The application shall be accompanied by the original invoice, or certified copy thereof, showing the purchase, and, if required by the ***department***[~~cabinet~~], evidence of payment therefor. When the ***department***[~~cabinet~~] is satisfied that a refund is proper, it shall authorize the tax paid to be refunded as other refunds are made; and the amount refunded shall be deducted from gasoline or special fuel tax receipts as appropriate.

(3) The right to receive any refund under the provisions of this section shall not be assignable, except to the executor or administrator, or to the receiver, trustee in bankruptcy, or assignee in insolvency proceedings of the person entitled thereto.

(4) Interest on refunds authorized under the provisions of this section shall be paid at the tax interest rate, as defined in KRS 131.010(6), and shall begin to accrue sixty (60) days after the postmark date of the application for refund.

Section 374. KRS 138.353 is amended to read as follows:

If any excise taxes on gasoline or special fuel be erroneously refunded, the ***department***[~~cabinet~~] shall issue an assessment for the amount erroneously refunded. The refund error shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Section 375. KRS 138.354 is amended to read as follows:

(1) No person shall make a false or fraudulent statement in an application for a refund permit or in a gasoline or special fuel refund invoice, or in an application for a refund of any taxes as set out in KRS 138.344 to 138.355; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent statement or claim; or having bought gasoline or special fuel under the provisions of KRS 138.344 to 138.355, shall use or permit such gasoline or special fuel or any part thereof to be used for any purpose other than as provided in KRS 138.344.

(2) The refund permit of any person who shall violate any provision of subsection (1) of this section may be revoked by the ***Department of*** Revenue[~~ Cabinet~~] subject to appeal to the Kentucky Board of Tax Appeals as provided by law, and may not be reissued until two (2) years have elapsed from the date of such revocation.

(3) The refund permit of any person who shall violate any provision of KRS 138.344 to 138.355, other than those contained in subsection (1) of this section, may be suspended by the ***Department of*** Revenue[~~ Cabinet~~] for any period in its discretion not exceeding six (6) months with the right of appeal to the Kentucky Board of Tax Appeals.

(4) If a dealer violates any provision of KRS 138.344 to 138.355, his privilege to sign refund invoices may be suspended by the ***Department of*** Revenue[~~ Cabinet~~] for a period of not more than two (2) years subject to appeal to the Kentucky Board of Tax Appeals. No refund shall be made on gasoline or special fuel purchased from a dealer while a suspension of his privilege to sign refund invoices is in effect.

Section 376. KRS 138.355 is amended to read as follows:

If the ***department***[~~cabinet~~] reasonably believes that any dealer or refund permit holder has been guilty of a violation of KRS 138.344 to 138.355, which would subject the dealer or permit holder to a suspension or revocation of his license or permit under the provisions of subsections (2), (3) or (4) of KRS 138.354, said dealer or permit holder may be cited by the ***department***[~~cabinet~~] to show cause at a public hearing before the ***Department of*** Revenue[~~ cabinet~~] why his license or permit should not be suspended or revoked. The dealer or refund permit holder shall be notified by certified or registered letter. The letter shall inform the dealer or refund permit holder of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license or permit may be revoked or suspended. The hearing shall be set at least five (5) days after the receipt of the letter. Any aggrieved dealer or refund permit holder may appeal any order entered to the Kentucky board of tax appeals as provided by law, subject to the condition that he make bond sufficient in the opinion of the ***department***[~~cabinet~~] to protect the Commonwealth from loss of revenue.

Section 377. KRS 138.358 is amended to read as follows:

(1) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a tank having no dispensing outlet and used exclusively to heat a personal residence, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively to heat the

personal residence to which it is delivered. No person so certifying shall use the special fuel for any other purpose. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized herein to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth.

(2) Any special fuels dealer who sells gasoline or special fuels, on which the tax imposed by KRS 138.220 has been paid, exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes. No person so certifying shall use gasoline or the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized herein to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth.

(3) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a nonhighway use storage tank of a resident nonprofit religious, charitable, or educational organization or state or local governmental agency which has qualified for exemption from Kentucky sales and use tax pursuant to KRS 139.470(7) or 139.495 shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement certifying the purchaser's sales and use tax purchase exemption authorization issued pursuant to KRS Chapter 139. No organization or agency so certifying shall use or allow the use of any nonhighway special fuel so acquired for any purpose other than fueling unlicensed vehicles or equipment for nonhighway purposes. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized herein to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth.

(4) Any special fuels dealer who sells special fuels, on which the tax imposed by KRS 138.220 has been paid, which shall be used exclusively for consumption in unlicensed vehicles or equipment for nonhighway purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for nonhighway purposes. No person making the certification shall use the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized in this subsection to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth. This credit shall not apply to special fuels taxes subject to a refund under KRS 138.445.

Section 378. KRS 138.445 is amended to read as follows:

(1) Except as provided in KRS 138.240(2)(e), any person who buys any liquid fuel for the purpose of dispensing it directly into fuel tanks installed in or attached to watercraft, for the purpose of operating or propelling watercraft, shall be reimbursed for the tax paid by him pursuant to the provisions of KRS 138.220 to 138.340 upon presenting to the ***department***[~~cabinet~~] an application accompanied by the original invoices showing the payment of the purchases, including the liquid fuel tax. The application shall set forth the total amount of the liquid fuel purchased and used by the applicant in the operation or propulsion of watercraft.

(2) (a) When liquid fuel on which the tax has been paid pursuant to the provisions of KRS 138.220 to 138.340 has been used for the purpose of operating any watercraft and was delivered directly to the fuel tanks installed in or attached to the watercraft, the purchaser of the liquid fuel so used shall be reimbursed for the tax paid. No tax shall be refunded except that paid upon the fuel used exclusively in watercraft motors; and

(b) No person shall be entitled to a refund hereunder unless he shall have first filed with the ***department***[~~cabinet~~] a bond with approved surety in the amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the ***department***[~~cabinet~~] and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) All refund claims authorized by this section shall be filed with the ***department***[~~cabinet~~] on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of the tax paid on the fuel. If the application for refund is mailed to the ***department***[~~cabinet~~], the date of mailing as shown by the postmark shall be taken as the time and date of filing with the ***department***[~~cabinet~~].

(4) Refunds shall be made only on gasoline and special fuels purchased by locations designated by the ***department***[~~cabinet~~]. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

Section 379. KRS 138.446 is amended to read as follows:

(1) City and suburban bus companies and taxicab companies operating under a certificate of convenience and necessity issued pursuant to KRS Chapter 281, taxicab companies regulated by a consolidated local government organized under KRS Chapter 67C or by an urban-county government organized under KRS Chapter 67A, holders of a nonprofit bus certificate as provided by KRS 281.619, and senior citizen programs which utilize Title III funds of the Older Americans Act in the provision of transportation services shall be entitled to a refund of seven-ninths (7/9) of the amount of KRS Chapter 138 taxes paid on motor fuels used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to a refund pursuant to this section unless he shall have first filed with the ***department***[~~cabinet~~]

a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) to be determined by the ***department***[~~cabinet~~], conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) Applications for refund shall be filed with the ***department***[~~cabinet~~] on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of tax paid on motor fuel used by buses or taxicabs. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses or taxicabs; the date and quantity of each purchase; the vendor from whom the fuel was purchased; the number of gallons on which refund is claimed; and other information the ***department***[~~cabinet~~] may require. Invoices shall be attached to applications from taxicab companies.

(4) The ***department***[~~cabinet~~] may require any gasoline dealer or any dealer's authorized agent to identify gasoline sold by him for taxicab use by adding any chemical or substance, which shall be furnished by the ***department***[~~cabinet~~] and used in the manner as prescribed by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] also may require that the dealer keep a complete record of all the gasoline sold by him, which records shall give the date of each sale, the number of gallons sold, the name of the person to whom sold, and the sale price.

(5) The ***department***[~~cabinet~~] shall audit the application and make any other investigation it deems necessary to determine whether it constitutes a proper claim. When the ***department***[~~cabinet~~] is satisfied that a refund is proper, it shall authorize seven-ninths (7/9) of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(6) When the ***department***[~~cabinet~~] finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the ***department***[~~cabinet~~] shall refuse to grant any refunds to the person making the false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of the findings.

(7) The ***department***[~~cabinet~~] may prescribe, promulgate and enforce administrative regulations relating to the administration and enforcement of this section.

(8) The refund provided for in this section shall be effective on motor fuel purchased on or after July 1, 1978.

Section 380. KRS 138.447 is amended to read as follows:

(1) A dealer may elect to be exempted from the provisions of KRS 138.330, subject to the following provisions:

(a) An election for exemption shall be made on an annual basis and shall be for a calendar year;

(b) At the conclusion of the year, the election for exemption shall continue for the next calendar year unless the dealer notifies the ***Department of*** Revenue[~~ Cabinet~~] of the dealer's intention to void the election for exemption by January fifteenth of the next calendar year; and

(c) If the election for exemption is voided, the provisions of KRS 138.330 immediately apply.

(2) (a) A dealer electing to be exempted from the provisions of KRS 138.330 shall file with the ***department***[~~cabinet~~] a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the ***department***[~~cabinet~~], or five thousand dollars ($5,000), whichever is greater.

(b) The financial instrument shall be on a form and with a surety to do business in this state.

(c) The dealer shall be the principal obligor and the state the obligee.

(d) The financial instrument shall be conditioned upon the prompt filing of true reports and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(3) (a) In addition to the provisions of KRS 138.210 to 138.340 the dealer shall certify to the ***department***[~~cabinet~~] no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month.

(b) The certification shall be submitted via an electronic method acceptable by both the dealer and the cabinet.

(c) By certifying the amount of tax which is to be remitted to the ***department***[~~cabinet~~], the dealer agrees to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

(d) If the dealer fails to certify the amount of tax collected as prescribed by this section or does not perform the electronic fund transfer, the ***department***[~~cabinet~~] may immediately make demand on the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340.

Section 381. KRS 138.448 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to

138.446. Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every person holding a corporate office at the time the tax becomes or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by KRS 138.210 to 138.446 at the time the tax imposed becomes or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and 131.990.

(a) The provisions of this section shall not apply if a corporation on an annual basis elects to be exempt from the provisions of KRS 138.224 by:

1. Filing with the ***department***[~~cabinet~~] a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the ***department***[~~cabinet~~], or five thousand dollars ($5,000), whichever is greater;

2. Certifying by an electronic method acceptable by both the dealer and the ***department***[~~cabinet~~] no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month; and

3. Agreeing to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

For the purpose of this paragraph, a "financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

(b) If a dealer fails to certify the amount of tax collected or does not perform the electronic fund transfer as prescribed by paragraph (a) of this subsection, the ***department***[~~cabinet~~] may immediately make demand of the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340, and the provisions of this section shall apply.

(2) Notwithstanding any other provision of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to 138.446. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the tax becomes or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by KRS 138.210 to 138.446 at the time the tax becomes or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and KRS 131.990.

(a) The provisions of this section shall not apply if a limited liability company or a registered limited liability partnership on an annual basis elects to be exempt from the provisions of KRS 138.224 by:

1. Filing with the ***department***[~~cabinet~~] a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the ***department***[~~cabinet~~], or five thousand dollars ($5,000), whichever is greater;

2. Certifying by an electronic method acceptable by both the dealer and the ***department***[~~cabinet~~] no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month; and

3. Agreeing to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

For the purpose of this paragraph, a "financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

(b) If a dealer fails to certify the amount of tax collected or does not perform the electronic fund transfer prescribed by paragraph (a) of this subsection, the ***department***[~~cabinet~~] may immediately make demand of the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340, and the provisions of this section shall apply.

Section 382. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the

succeeding calendar year, if the same model and make is being offered for sale by local dealers;

(2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;

(3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;

(4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;

(5) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(6) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(7) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;

(8) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;

(9) "Total consideration given" means the amount given, valued in money, whether received in money or otherwise, at the time of purchase or at a later date, including consideration given for all equipment and accessories, standard and optional, as attested to in a notarized affidavit signed by both the buyer and the seller. The signatures of the buyer and seller shall be individually notarized. "Total consideration given" shall not include:

  (a) Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

  (b) Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and

  (c) The value of any items that are not equipment or accessories including but not limited to extended warranties, service contracts, and items that are given away as part of a promotional sales campaign;

(10) "Trade-in allowance" means the value assigned by the seller of a motor vehicle to a motor vehicle offered in trade by the purchaser as part of the total consideration given by the purchaser and included in the notarized affidavit attesting to total consideration given;

(11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;

(12) "Retail price" of motor vehicles shall be determined as follows:

  (a) For new, dealer demonstrator, previous model year motor vehicles and U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in allowance as attested to in a notarized affidavit. If a notarized affidavit signed by both the buyer and seller is not available to establish total consideration given, "retail price" shall be:

    1. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or

    2. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds; and

    3. "Retail price" shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities;

  (b) For historic motor vehicles, "retail price" shall be one hundred dollars ($100);

  (c) For used motor vehicles being registered by a new resident for the first time in Kentucky whose values appear in the automotive reference manual prescribed by the ***Department of*** Revenue[~~Cabinet~~], "retail price" shall be the average trade-in value given in the reference manual;

  (d) For the older used motor vehicles being registered by a new resident for the first time in Kentucky whose values no longer appear in the automotive reference manual, "retail price" shall be one hundred dollars ($100);

  (e) For used motor vehicles previously registered in another state or country that were purchased out-of-state by a Kentucky resident who is registering the vehicle in Kentucky for the first time, "retail price" shall be the total consideration given at the time of purchase or at a later date, including the average trade-in value given in the automotive reference manual prescribed by the ***Department of*** Revenue[~~Cabinet~~] for any vehicle given in trade;

  (f) For used motor vehicles previously registered in Kentucky that are sold in Kentucky, and U-Drive-It motor vehicles that are not transferred within one hundred eighty (180) days of being registered as a U-Drive-It or that have more than five thousand (5,000) miles, "retail price" means the total consideration given, excluding any amount allowed as a trade-in allowance by the seller. The trade-in allowance shall be disclosed in the notarized affidavit signed by the buyer and the seller attesting to the total consideration given. If a notarized affidavit signed by both the buyer and the seller is not available to establish the total consideration given for a motor vehicle, "retail price" shall be established by the ***Department of*** Revenue[~~ Cabinet~~] through the use of the automotive reference manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~];

(g) Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the average trade-in value given in the automotive reference manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~];

(h) If a dealer transfers a motor vehicle which he has registered as a loaner or rental motor vehicle within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a loaner or rental motor vehicle, then the "retail price" of the vehicle shall be the same as the retail price determined by paragraph (a) of this subsection computed as of the date on which the vehicle is transferred; and

(13) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a dealer and which is regularly loaned or rented to customers of the service or repair component of the dealership.

Section 383. KRS 138.460 is amended to read as follows:

(1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the ***Department of*** Revenue[~~ Cabinet~~] on forms provided by the ***department***[~~cabinet~~] and on those forms as the ***department***[~~cabinet~~] may prescribe. The ***department***[~~cabinet~~] shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of KRS 138.450. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a person offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. A credit shall not be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk a notarized affidavit, if required, and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12)(a) for new vehicles, and KRS 138.450(12)(c) or (d) for used cars. The clerk shall attach the notarized affidavit, if available, or other documentation attesting to the retail price of the vehicle as the ***Department of*** Revenue[~~ Cabinet~~] may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars ($6) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the ***Department of*** Revenue[~~ Cabinet~~] as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the ***Department of*** Revenue[~~ Cabinet~~] as a result of the first registration. A person shall not be entitled to a refund unless he shall have filed with the ***Department of*** Revenue[~~ Cabinet~~] a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the ***Department of*** Revenue[~~ Cabinet~~] as a result of the registration. A person shall not be entitled to a refund unless he shall have filed with the ***Department of*** Revenue[~~ Cabinet~~] a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 384. KRS 138.4605 is amended to read as follows:

(1) A motor vehicle dealer who operates a service or repair component in his dealership may register a motor vehicle to be used exclusively as a loaner or rental motor vehicle to the customers of this service or repair department. The dealer may pay usage tax on the loaner or rental motor vehicle as provided in KRS 138.460, or, subject to the provisions of this section, may pay a usage tax of twenty-five dollars ($25) per month on the loaner or rental motor vehicle.

(2) A dealer shall pay the usage tax on a loaner or rental motor vehicle in the manner provided by KRS 138.460 unless the dealer shows to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that he is regularly engaged in the servicing or repair of motor vehicles and loans or rents the loaner or rental motor vehicle to a retail customer while the customer's motor vehicle is at the dealership for repair or service.

(3) For a dealer to be eligible to pay the usage tax on a loaner or rental motor vehicle under this section, the dealer shall identify the motor vehicle as a loaner or rental motor vehicle to the ***Department of*** Revenue[~~ Cabinet~~] and shall maintain records, as required by the ***Department of*** Revenue[~~ Cabinet~~], which show all uses of the loaner or rental motor vehicle.

(4) The tax due under subsection (1) of this section shall be remitted to the ***Department of*** Revenue[~~ Cabinet~~] monthly on forms prescribed by and in accordance with administrative regulations promulgated by the ***department***[~~cabinet~~].

(5) Failure of a motor vehicle dealer to remit the taxes applicable to a loaner or rental motor vehicle under this section shall be sufficient cause for the ***Department of*** Revenue[~~ Cabinet~~] to revoke the authority to use that motor vehicle as a loaner or rental motor vehicle and cause the usage tax on that motor vehicle to be due and payable in accordance with KRS 138.460 on the retail price of that motor vehicle when it was first registered as a loaner or rental motor vehicle.

(6) A motor vehicle no longer covered under the loaner permit program shall be taxed in the same manner as motor vehicles under KRS 138.450(12).

Section 385. KRS 138.464 is amended to read as follows:

The county clerk shall report each Monday to the ***Department of*** Revenue[~~ Cabinet~~] all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. The clerk shall deposit motor vehicle usage tax collections not later than the next business day following receipt in a Commonwealth of Kentucky, ***Department of*** Revenue[~~ Cabinet~~] account in a bank designated as a depository for state funds. The clerk may be required to then cause the funds to be transferred from the local depository bank to the State Treasury in whatever manner and at times prescribed by the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] or his designee. Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed. Failure to deposit or, if required, transfer collections as required above shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount not deposited or, if required, not transferred for each day until the collections are deposited or transferred as required above. The penalty for failure to deposit or transfer money collected shall not be less than fifty dollars ($50) nor more than five hundred dollars ($500) per day. The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause. The ***department***[~~cabinet~~] may in its discretion grant a county clerk a reasonable extension of time to file his report or make any transfer of deposits as required above. The extension, however, must be requested prior to the end of the seven (7) day period and shall begin to run at the end of said period. All penalties collected under this provision shall be paid into the State Treasury as a part of the revenue collected under KRS 138.450 to 138.729.

Section 386. KRS 138.490 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall furnish the ***Department of*** Revenue[~~ Cabinet~~], within thirty (30) days after the end of each race meeting, a report of the number of persons subject to the tax levied in KRS 138.480 who enter the grounds or inclosure during the race meeting. At the same time, the person shall pay to the state the correct amount due by reason of the collection of the tax from persons entering the grounds or inclosure of the race track.

(2) Any person who violates any provision of this section or KRS 138.480 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6).

Section 387. KRS 138.502 is amended to read as follows:

(1) A person shall not sell or deliver untaxed diesel fuel or dyed diesel fuel when the person knows or has reason to know that the fuel will be used in a motor vehicle on any public highway.

(2) A person shall not introduce untaxed diesel fuel or dyed diesel fuel into the supply tank of any motor vehicle licensed for highway use.

(3) A person shall not use untaxed diesel fuel or dyed diesel fuel in any motor vehicle actually used on a public highway.

(4) The prohibitions contained in this section shall not apply to:

(a) Persons operating motor vehicles that have received fuel into the fuel tank outside this state in a jurisdiction that permits introduction of untaxed diesel fuel or dyed diesel fuel into the fuel supply tank of highway vehicles; and

(b) Uses of untaxed fuel or dyed diesel fuel on the highway which are lawful under the Internal Revenue Code and regulations, including state and local government vehicles, and buses, unless otherwise prohibited by this chapter.

(5) The ***department***[~~cabinet~~] may assess a civil penalty as follows:

(a) For first offenses, one thousand dollars ($1,000) or ten dollars ($10) per gallon of untaxed fuel or dyed diesel fuel involved, whichever is greater, against any person who violates this section. The capacity of the fuel tank shall be assumed to be the amount of fuel involved, unless a lesser amount can be adequately verified by the violator; and

(b) For subsequent offenses, the penalty shall be the amount determined in paragraph (a) of this subsection, multiplied by the number of separate violations by the violator.

Section 388. KRS 138.530 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS Chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510 shall be made weekly to the ***Department of*** Revenue[~~ Cabinet~~] no later than the fifth business day, excluding Saturday and Sunday, following the close of each week of racing, during each race meeting and accompanied by reports as prescribed by the ***department***[~~cabinet~~]. All funds received by the ***Department of*** Revenue[~~ Cabinet~~] shall be paid into the State Treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky Horse Racing Authority shall weekly, during each race meeting, report to the ***Department of*** Revenue[~~ Cabinet~~] the total amount bet or handled the preceding week and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky Horse Racing Authority or his duly authorized representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines, and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation, or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any.

Section 389. KRS 138.550 is amended to read as follows:

In addition to all other penalties provided in KRS 138.510 to 138.540, when the pari-mutuel system of betting is operated at a track licensed under the provisions of KRS 137.170, said license may be suspended, revoked or renewal refused by the Kentucky Horse Racing Authority upon the failure of the operator to comply with the provisions of KRS 138.510 to 138.540 or the rules and regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~] pursuant thereto even though the pari-mutuel system of betting and the track are operated by different persons, corporations or associations.

Section 390. KRS 138.727 is amended to read as follows:

(1) Nothing in KRS 186.655 to 186.725 shall deny the right of the ***Department of*** Revenue[~~ Cabinet~~] to make audits of a taxpayer's records and accounts, even though the same taxpayer may be or should be a motor carrier and subject to investigation by the Department of Vehicle Regulation.

(2) The Department of Vehicle Regulation shall, upon request of the ***Department of*** Revenue[~~ Cabinet~~], furnish the ***Department of*** Revenue[~~ Cabinet~~] any information which it may have in its records with regard to the administration of KRS 138.655 to 138.725.

(3) The Department of Vehicle Regulation shall not make any refunds to any person or company without inquiring of the ***Department of*** Revenue[~~ Cabinet~~] as to the person or company being indebted to the Commonwealth of Kentucky by reason of any tax liability, and no refunds shall be made if such person or company is indebted in any fashion to the Commonwealth of Kentucky.

Section 391. KRS 138.810 is amended to read as follows:

As used in KRS 138.820 to 138.860:

(1) "Contaminated waste materials" means those materials, in solid, liquid or gaseous form, which are transported or buried with radioactive wastes;

(2) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(3) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation;

(4) "Processor" means any person receiving delivery or any person having an interest or right of occupancy or use in real property or improvements or any person owning, operating or maintaining a radioactive waste disposal site or facility of

contaminated waste materials or radioactive waste materials for processing, packaging, storage, disposal, burial or other disposition;

(5) "Radioactive waste disposal site or facility" means any installation constructed, used or placed in operation primarily for disposing of contaminated waste materials or radioactive wastes;

(6) "Radioactive wastes" means any and all material which is radioactive or is contaminated by or with radioactive material including but not limited to any structures used in containing such radioactive wastes; and

(7) "Radioactive material" means any material, solid, liquid or gas, which emits radiation spontaneously.

Section 392. KRS 138.820 is amended to read as follows:

(1) An excise tax of ten cents ($0.10) per pound is hereby levied and shall be paid by the processor to the ***department***[~~cabinet~~] upon all contaminated waste materials and all radioactive waste material delivered in the Commonwealth of Kentucky for processing, packaging, storage, disposal, burial or other disposition.

(2) Any person receiving contaminated waste materials or radioactive waste material or both or any person having an interest or right of occupancy or use in real property or improvements and any person owning, operating or maintaining a solid waste disposal site or facility as defined in KRS 224.01-010 upon or in which the same shall be deposited for processing, packaging, storage, disposal, burial or other disposition shall collect from the person delivering such material the tax imposed by this section.

(3) Every processor shall file with the ***department***[~~cabinet~~], on forms prescribed by the ***department***[~~cabinet~~], a monthly tax return. The return shall be made under penalty of perjury and shall contain such information as the ***department***[~~cabinet~~] may require.

(4) The monthly tax return shall be accompanied by remittance of the tax then due.

Section 393. KRS 138.830 is amended to read as follows:

Every processor shall maintain complete records of all deliveries of contaminated waste materials and of radioactive waste materials. Such records, together with manifests of lading, invoices, correspondence and other papers pertaining thereto shall be retained for a minimum period of two (2) years, and, if requested by the ***department***[~~cabinet~~], shall be made available for examination by the ***department***[~~cabinet~~].

Section 394. KRS 138.840 is amended to read as follows:

The ***department***[~~cabinet~~] may audit the books and records of each processor and make such other investigations as it deems necessary to determine the payment of tax and other requirements imposed by KRS 138.820 to 138.860.

Section 395. KRS 138.850 is amended to read as follows:

The tax returns required by KRS 138.820(3) shall be accompanied by a certified or cashier's check, payable to the state treasurer, for the amount of tax due for the preceding calendar month except that the ***department***[~~cabinet~~] may waive this requirement and accept the check of the processor if he is of sound financial condition and has established a record of compliance.

Section 396. KRS 138.860 is amended to read as follows:

The ***department***[~~cabinet~~] shall administer the taxes provided under KRS 138.820(1) and may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

Section 397. KRS 138.874 is amended to read as follows:

(1) Except as provided in KRS 138.870 to 138.889, no offender shall engage in this state in a taxable activity unless the tax imposed pursuant to KRS 138.872 has been paid as evidenced by the affixing of a tax stamp, label, or other tax indicia to the marijuana or controlled substance as prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The tax shall be due and payable immediately upon the occurrence of the taxable activity in this state. If an offender engages in a taxable activity in this state involving marijuana or a controlled substance on which a tax stamp, label, or other tax indicia evidencing payment of the tax imposed pursuant to KRS 138.872 has not already been affixed, the offender shall immediately permanently affix the required tax stamp, label, or other tax indicia.

(2) Tax stamps, labels, or other tax indicia required to be affixed to marijuana or controlled substances shall be purchased from the ***Department of*** Revenue[~~ Cabinet~~]. The purchaser shall pay one hundred percent (100%) of the face value for each tax stamp, label, or other tax indicia at the time of the purchase. The ***Department of*** Revenue[~~ Cabinet~~] shall maintain an inventory of tax stamps, labels, or other tax indicia in denominations it deems necessary to facilitate compliance by taxpayers with the provisions of this section. No purchaser of tax stamps, labels, or other tax indicia pursuant to this section shall be required to give his name, address, or otherwise identify himself to the ***Department of*** Revenue[~~ Cabinet~~].

(3) Each tax stamp, label, or other tax indicia shall be used only once and shall expire one (1) year after issuance by the ***Department of*** Revenue[~~ Cabinet~~] to the original purchaser thereof.

Section 398. KRS 138.876 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall administer the provisions of KRS 138.870 to 138.889 and may adopt regulations for the administration and enforcement of KRS 138.870 to 138.889. The ***Department of*** Revenue[~~ Cabinet~~] shall adopt a uniform system for providing, affixing, and displaying tax stamps, labels, or other tax indicia required pursuant to KRS 138.874. Payments required by KRS 138.872 shall be made to the ***Department of*** Revenue[~~ Cabinet~~] in the form the ***Department of*** Revenue[

~~Cabinet~~] requires to protect the revenues of the Commonwealth.

Section 399. KRS 138.880 is amended to read as follows:

(1) Each Commonwealth's attorney or county attorney in this state who obtains a conviction of, or a guilty or Alford plea from, an offender for violating KRS Chapter 218A shall, within seventy-two (72) hours after the conviction or the plea, notify the ***Department of*** Revenue[~~ Cabinet~~] in writing if the offender has not paid the tax imposed by KRS 138.872 as evidenced by the absence of the tax stamps, labels, or other official tax indicia required to be affixed to the marijuana or controlled substance that was the subject of the conviction or plea. The weight or dosage units prescribed in this subsection shall include the weight of the marijuana or the weight or dosage units of the controlled substance, whether pure, impure, or diluted. The notice required in this subsection shall be submitted in the manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and shall include:

(a) The name, address, and Social Security number of the offender from whom the conviction or plea was obtained;

(b) The type and quantity of the items that were the subject of the conviction or plea;

(c) Any information developed during the course of the investigation regarding any real or personal properties owned by the offender from whom the conviction or plea was obtained; and

(d) Other information the ***Department of*** Revenue[~~ Cabinet~~] may require to facilitate the assessment and collection of the tax due pursuant to KRS 138.872.

(2) To facilitate collection of the tax due pursuant to KRS 138.872, the Commonwealth's attorney or county attorney shall, as an authorized agent of the ***Department of*** Revenue[~~ Cabinet~~], simultaneously file a copy of the notice required pursuant to subsection (1) of this section with:

(a) The county clerk of the county in which the conviction or the guilty or Alford plea was entered;

(b) The county clerk of the county in which the offender resides if different from the county in which the conviction or plea was entered;

(c) The county clerk of any other county in which the Commonwealth's attorney or county attorney reasonably believes the offender from whom the conviction or plea was obtained owns real or personal property; and

(d) Each financial institution or other custodian the Commonwealth's attorney or county attorney reasonably believes possesses any funds, safe deposit box, or other assets owned in whole or in part by the offender from whom the conviction or plea was obtained.

(3) The notice required by subsection (2) of this section shall be a lien in favor of the Commonwealth pursuant to KRS 134.420 to secure payment of the tax, penalty, and interest due. The tax shall be and remain a lien upon the property, and all property subsequently acquired, and may be enforced as other liens on similar property are enforced. The lien may be released only upon written notice from the ***Department of*** Revenue[~~ Cabinet~~] that:

(a) The tax, penalty and interest due pursuant to KRS 138.872 and 138.889 have been paid;

(b) A bond has been given to the ***Department of*** Revenue[~~ Cabinet~~] as provided in KRS 131.150; or

(c) The tax, penalty, and interest are determined by the ***Department of*** Revenue[~~ Cabinet~~] not to be due.

(4) The county clerk recording or releasing a state tax lien pursuant to this section shall be entitled to the fee prescribed therefor by KRS 64.012.

(5) Except as necessary to accept taxes that the offender voluntarily pays under KRS 138.874, the ***Department of*** Revenue[~~ Cabinet~~] shall not require a bond or otherwise attempt to collect the tax due under KRS 138.874 until the offender's taxable activity results in a conviction or a guilty or Alford plea for a violation of KRS Chapter 218A. However, the ***Department of*** Revenue[~~ Cabinet~~] may impose a notice of lien on issuance of a warrant or indictment, which shall be released upon acquittal or dismissal of the case.

Section 400. KRS 138.882 is amended to read as follows:

(1) The tax, penalty, and interest assessed by the ***Department of*** Revenue[~~ Cabinet~~] pursuant to KRS 138.872 and 138.889 shall be deemed prima facie valid and correctly determined and assessed. The burden shall be upon the taxpayer in any judicial or administrative proceeding in this state to show their incorrectness or invalidity.

(2) The collection provisions of KRS 131.500, and any other remedy provided by the laws of the Commonwealth for collection of a tax administered by the ***Department of*** Revenue[~~ Cabinet~~], shall apply with respect to the collection of the tax, penalty, and interest imposed by KRS 138.872 and 138.889, but it shall not be necessary for the ***Department of*** Revenue[~~ Cabinet~~] to await the expiration of the times specified in KRS 131.500 to levy upon and sell any property or rights to property found within the Commonwealth belonging to the offender failing to pay the tax, penalty, or interest due pursuant to KRS 138.872 and 138.889.

(3) No person shall bring an action in any court to restrain or delay the assessment or collection of any tax, penalty, or interest imposed by KRS 138.872 and 138.889.

(4) Notwithstanding any provision of KRS 138.870 to 138.889, or any other provision of law, collection of any tax, penalty, or interest under KRS 138.872 and 138.889 or imposition of any revenue liens arising as a result of KRS 138.880 shall not interfere with any forfeiture of money or any other type or kind of property under the drug forfeiture laws of this state, or

with any distribution of property or funds under the drug forfeiture laws of this state. Regardless of the order in which proceedings are begun, forfeiture of money or any other type or kind of property and distribution of property and funds under the drug forfeiture laws of this state shall take precedence over any proceedings to collect the tax, penalty, or interest due pursuant to KRS 138.872 and 138.889.

Section 401. KRS 138.884 is amended to read as follows:

For the purpose of determining the correctness of any return; determining the amount of tax that should have been paid; determining whether or not the offender should have made a return or paid tax; or collecting any tax, penalty, or interest under KRS 138.872 and 138.889, the ***Department of*** Revenue[~~ Cabinet~~] may examine, or cause to be examined, any books, papers, records, or memoranda that may be relevant to making any determinations, whether the books, papers, records, or memoranda are the property of or in the possession of the offender or another person. The ***Department of*** Revenue[~~ Cabinet~~] may require the attendance of any person having knowledge or information that may be relevant; compel the production of books, papers, records, or memoranda by persons required to attend; take testimony on matters material to the determination; and administer oaths or affirmations. The ***Department of*** Revenue[~~ Cabinet~~] may issue subpoenas which may be served by authorized agents of the ***Department of*** Revenue[~~ Cabinet~~] to compel the attendance of witnesses or the production of documents, books, papers, records, bank records, and any other writing or memoranda.

Section 402. KRS 138.886 is amended to read as follows:

(1) The provisions of KRS 138.870 to 138.889 shall not inculpate any person or otherwise cause any person to incriminate himself in violation of his constitutional rights and, notwithstanding the exceptions provided in KRS 131.190 or any other law, neither the ***Department of*** Revenue[~~ Cabinet~~] nor any public employee may reveal facts contained in any report required by KRS 138.870 to 138.889, nor shall any information contained in any report filed pursuant to KRS 138.870 to 138.889 be used against an offender in any criminal proceeding, except in connection with a proceeding involving the tax, penalty, or interest due under KRS 138.872 and 138.889, unless the information is independently obtained. Further, possession of any tax stamp, label, or other tax indicia evidencing payment of tax pursuant to KRS 138.874 shall not be used against any person in any criminal proceeding.

(2) Any person violating this section shall be guilty of a Class B misdemeanor.

(3) This section shall not prohibit the ***Department of*** Revenue[~~ Cabinet~~] from publishing statistics that do not disclose the identity of offenders or the contents of particular returns or reports.

Section 403. KRS 138.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 138.140, 138.146, or 138.195 for which a specific penalty is not provided shall be guilty of a violation for the first offense; for each such subsequent offense, he shall be guilty of a Class A misdemeanor. These penalties shall be in addition to the civil penalties provided by KRS 138.165, 138.185, and 138.205.

(2) Any person who fails to supply the information required by subsection (8) of KRS 138.195 shall be guilty of a violation; for each subsequent offense, he shall be guilty of a Class B misdemeanor. These penalties shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(3) Any person violating subsection (10) of KRS 138.195 or any regulations adopted thereunder shall be guilty of a Class A misdemeanor. This penalty shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation, or sale of cigarettes, and presents any such false entry to the ***department***[~~cabinet~~] or any of its agents with the intent to avoid any tax imposed by KRS 138.130 to 138.205, shall be guilty of a Class D felony.

(5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a Class D felony.

(6) Any person who sells, offers to sell, or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a Class D felony.

(7) Any person who fails to remit gasoline or special fuel tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds. Embezzlement of state funds, for the first offense, shall be a Class A misdemeanor, and for the second offense, shall be a Class D felony.

(8) Any person who violates any of the provisions of KRS 138.300 shall be guilty of a Class A misdemeanor. This penalty shall be in addition to the penalty provided in subsection (7) of this section.

(9) Any person who violates KRS 138.310 shall be guilty of a Class A misdemeanor. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.

(10) (a) Any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under KRS 138.450 shall be guilty of a Class D felony and shall be fined not less than two thousand dollars ($2,000) per offense.

(b) Any person who violates any of the other provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000) and if the offender is an individual, he shall be guilty of a Class A misdemeanor.

(11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be guilty of a Class B misdemeanor.

(12) If any offender under the provisions of subsections (1) to (9), (11) or (16) of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.

(13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked, shall be guilty of a Class A misdemeanor.

(14) Any person violating any provision of KRS 138.655 to 138.725 is guilty of a Class A misdemeanor.

(15) In addition to the penalties provided in KRS 138.990(14), the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.

(16) Any person violating KRS 138.175 shall be guilty of a Class D felony.

(17) Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:

(a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars ($250) or less; and

(b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars ($250).

Section 404. KRS 139.025 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations providing for the reporting of gross receipts and payment of taxes levied by this chapter on a basis other than accrual.

Section 405. KRS 139.110 is amended to read as follows:

(1) "Retailer" means:

(a) Every person engaged in the business of making retail sales or furnishing any services included in KRS 139.200;

(b) Every person engaged in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption;

(c) Every person making more than two (2) retail sales during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

(d) Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.

(2) When the ***department***[~~cabinet~~] determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the ***department***[~~cabinet~~] may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

Section 406. KRS 139.180 is amended to read as follows:

"Taxpayer" means any person liable for tax under this chapter; ***"department"***[~~"cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~].

Section 407. KRS 139.210 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the tax shall be required to be collected by the retailer from the purchaser. If the taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount. The tax shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.

(2) The ***department***[~~cabinet~~] may relieve certain retailers from the provisions of subsection (1) of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. If the retailer establishes to the satisfaction of the ***department***[~~cabinet~~] that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.

(3) The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky.

(4) The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

Section 408. KRS 139.240 is amended to read as follows:

(1) Every person presently engaged or desiring to engage in or conduct business as a retailer or seller within this state shall file with the ***department***[~~cabinet~~] an application for a permit for each place of business.

(2) Every application for a permit shall:

(a) Be made upon a form prescribed by the ***department***[~~cabinet~~];

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of the place or places of business; and

(c) Set forth other information as the ***department***[~~cabinet~~] may require.

(3) The application shall be signed by:

(a) The owner, if he or she is a natural person;

(b) A member or partner, if the entity is an association, limited liability company, limited liability partnership, or partnership;

(c) An executive officer, if the entity is a corporation, or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his or her authority; or

(d) A licensed certified public accountant, or an attorney licensed to practice law in the Commonwealth of Kentucky, specifically authorized by and acting on behalf of an owner, an association, a partnership, a limited liability company, a limited liability partnership, a corporation, or other business entity.

(4) A written signature shall not be required if the applicant registers electronically.

Section 409. KRS 139.250 is amended to read as follows:

After compliance with KRS 139.240 and 139.660 by the applicant, the ***department***[~~cabinet~~] shall grant and issue to each applicant a separate permit for each place of business within the state. A permit shall not be assignable, and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

Section 410. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property sold by any person for delivery in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is either:

(1) Purchased for resale according to the provisions of KRS 139.270;

(2) Purchased through a properly executed certificate of exemption in accordance with KRS 139.270;

(3) Purchased according to regulations of the ***Department of*** Revenue[~~ Cabinet~~] governing a direct pay authorization; or

(4) Purchased under a form issued pursuant to KRS 139.776 or 139.777.

Section 411. KRS 139.270 is amended to read as follows:

(1) The resale certificate or certificate of exemption relieves the retailer or seller from the burden of proof only if taken in good faith from a person who, at the time of purchasing the tangible personal property:

(a) Indicates an intention to sell it in the regular course of business by executing the resale certificate; or

(b) Indicates that the property purchased will be used in an exempt manner by executing a certificate of exemption.

This relief from liability does not apply to a retailer or seller who fraudulently fails to collect the tax or solicits purchasers to participate in the unlawful claiming of an exemption.

(2) "Good faith" shall be demonstrated by the retailer or seller if the retailer or seller:

(a) Accepts a properly completed resale certificate or certificate of exemption; and

(b) Maintains a file of the certificate in accordance with KRS 139.720.

(3) If the ***department***[~~cabinet~~] later finds that the retailer or seller exercised good faith according to the provisions of subsection (2) of this section but that the purchaser used the property in a manner that would not have qualified for resale status or the purchaser issued a certificate of exemption and used the property in some other manner or for some other purpose, the ***department***[~~cabinet~~] shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 412. KRS 139.280 is amended to read as follows:

(1) The resale certificate shall:

(a) Be signed by and bear the name and address of the purchaser;

(b) Indicate the number of the permit issued to the purchaser;

(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.

(2) The certificate shall be substantially in a form as the ***department***[~~cabinet~~] may prescribe.

(3) A signature shall not be required if the purchaser provides the retailer with an electronic resale certificate.

Section 413. KRS 139.320 is amended to read as follows:

(1) The use tax of six percent (6%) is hereby levied upon the storage, use, or other consumption in this state of any machines, machinery, tools, or other equipment brought, imported or caused to be brought into this state for use in constructing, building, or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage, or dredging system, electric or steam railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf,

excavation, grading, or other improvement or structures, or any part thereof. The owner or, if the property is leased the lessee of any such machine, machinery, tools, or other equipment shall be liable for the tax provided for in this chapter, to be computed as set out below. The useful life of such machines, tools, or other equipment shall be determined by the ***department***~~[cabinet]~~ in accordance with the depreciable value permitted under KRS Chapter 141 and regulations issued pursuant thereto. Said use tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in this state bears to the total useful life. Such tax shall become due immediately upon such property's being brought into this state, and in the absence of satisfactory evidence as to the period of use intended in this state, it shall be presumed that such property will remain in this state for the remainder of its useful life.

(2) The provisions of this section shall not be applicable with respect to sales of such property within this state or to the use, storage, or consumption of such property when purchased for use in this state, and in such cases the full sales or use tax shall be paid as in all other cases, irrespective of the period of intended use in this state.

(3) For the purposes of this section, the total useful life of property which is fully depreciated at the time of being brought into this state or becomes fully depreciated while in use in this state shall be extended to include the time of use in this state. In the absence of satisfactory evidence as to the period of use in this state, the tax shall be computed on an annual basis and shall be paid as provided by KRS 139.540.

Section 414. KRS 139.330 is amended to read as follows:

Every person storing, using or otherwise consuming in this state tangible personal property purchased from a retailer is liable for the use tax levied under KRS 139.310. His liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the ***department***~~[cabinet]~~, under such rules and regulations as it may prescribe, to collect the tax and who is, for the purpose of this chapter relating to the use tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to KRS 139.340 is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Section 415. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the ***department***~~[cabinet]~~. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state; or

(e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer.

Section 416. KRS 139.390 is amended to read as follows:

Every retailer selling tangible personal property for storage, use or other consumption in this state shall register with the ***department***~~[cabinet]~~ and give:

(1) The name and address of all agents operating in this state;

(2) The location of all distribution or sales houses or offices or other places of business in this state;

(3) Such other information as the ***department***~~[cabinet]~~ may require.

Section 417. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property which

this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the ***Department of*** Revenue[~~ Cabinet~~];

(b) In making the determinations of eligibility, the ***department***[~~cabinet~~] shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.170(3). For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;

(14) Gross receipts from the sale of water used in the raising of equine as a business;

(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;

(16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;

(17) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;

(18) Gross receipts from the sale of property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(19) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(20) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;

(21) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied by KRS 138.460 has been paid;

(22) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17); and

(23) Gross receipts from the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243.

Section 418. KRS 139.505 is amended to read as follows:

(1) For the purpose of this section, "gross receipts" means:

(a) Sales of tangible personal property in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; and

(b) Sales other than sales of tangible personal property in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on cost of performance, or gross receipt allocation method as provided by statute and elected by the taxpayer.

(2) Any business whose communications service, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent (5%) of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit. The refundable credit shall be equal to the sales tax paid on the difference by which the communications service purchased by the business exceeds five percent (5%) of the business's Kentucky gross receipts.

(3) Any business that qualifies for the refundable credit authorized by subsection (2) of this section shall make an annual application for the refund on or after June 1, 2002, and on or after every June 1 thereafter. The application shall be made to the ***department***[~~cabinet~~] on forms as the ***department***[~~cabinet~~] may prescribe and shall contain any information deemed necessary for the ***department***[~~cabinet~~] to determine the business's eligibility to receive a refund.

(4) Notwithstanding the provisions of KRS 134.580 to the contrary, the ***department***[~~cabinet~~], upon receipt of a properly documented refund application, shall cause a timely refund to be made directly to the business. Interest shall not be allowed or paid on any refund made under this section.

(5) Any refund application submitted under this section is subject to examination by the ***department***[~~cabinet~~]. The examination shall occur within four (4) years from the date the refund application is received by the ***department***[~~cabinet~~]. Any overpayment resulting from the examination shall be repaid to the State Treasury. In addition, the amount required to be repaid is subject to the interest provisions of KRS 131.183 and to the penalty provisions of KRS 131.180.

(6) If a business owns directly or indirectly fifty percent (50%) or more of another business, the credit computed under subsection (2) of this section shall be computed on a combined basis, excluding any intercompany Kentucky gross receipts.

Section 419. KRS 139.510 is amended to read as follows:

(1) The tax levied by KRS 139.310 shall not apply with respect to the storage, use, or other consumption of tangible personal property in this state upon which a tax substantially identical to the tax levied under KRS 139.200 (not including any special excise taxes such as are imposed on alcoholic beverages, cigarettes, and the like) equal to or greater than the

amount of tax imposed by KRS 139.310 has been paid in another state. Proof of payment of such tax shall be according to rules and regulations of the ***department***[~~cabinet~~]. If the amount of tax paid in another state is not equal to or greater than the amount of tax imposed by KRS 139.310, then the taxpayer shall pay to the ***department***[~~cabinet~~] an amount sufficient to make the tax paid in the other state and in this state equal to the amount imposed by KRS 139.310. No credit shall be given under this section for sales taxes paid in another state if that state does not grant credit for sales taxes paid in this state.

(2) To prevent actual multistate taxation of a communications service subject to taxation under this chapter, any provider or purchaser, upon proof that the provider or purchaser has paid a tax in another state on the same communications services, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of the tax legally paid in the other state.

Section 420. KRS 139.536 is amended to read as follows:

(1) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851. The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected. The term of the agreement granting the sales tax refund shall be ten (10) years, and this time period shall commence on the later of:

(a) The final approval for purposes of the inducements; or

(b) The completion date specified in the agreement.

(2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.

(3) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds. By October 1 of each year the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the authority and the secretary of the Tourism Development Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to subsection (1) of this section.

(4) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(5) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of this section and KRS 148.851 to 148.860.

Section 421. KRS 139.5381 is amended to read as follows:

As used in KRS 139.5382 to 139.5386 and 139.990(5), unless the context requires otherwise:

(1) ***"Department"***[~~"Cabinet"~~] means the Kentucky ***Department of*** Revenue[~~ Cabinet~~];

(2) "Motion picture production company" means a company engaged in the business of producing motion pictures intended for a theatrical release or for exhibition on national television either by a network or for national syndication, or television programs which will serve as a pilot for or a segment of a nationally televised dramatic series, either by a network or for national syndication;

(3) "Financial institution" means any bank or savings and loan institution in the Commonwealth which carries FDIC or FSLIC insurance; and

(4) "Secretary" means the secretary of the Kentucky Finance and Administration Cabinet.

Section 422. KRS 139.5382 is amended to read as follows:

(1) Any motion picture production company that intends to film all, or parts of, a motion picture in Kentucky and desires to receive the credit provided for in KRS 139.5382 to 139.5386 shall, prior to the commencement of filming:

(a) Provide the ***Department of*** Revenue[~~ Cabinet~~] with the address of a Kentucky location at which records of expenditures qualifying for the tax credit will be maintained, and with the name of the individual maintaining such records; and

(b) File an application for the tax credit provided for in KRS 139.5382 to 139.5386 within sixty (60) days after the completion of filming or production in Kentucky. The application shall include a final expenditure report providing documentation for expenditures in accordance with regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~].

(2) To qualify as a basis for the financial incentive, expenditures must be made by check drawn upon any Kentucky financial institution.

(3) The twelve (12) month period, during which expenditures may qualify for the tax credit provided by KRS 139.5382 to 139.5386, shall begin on the date of the earliest expenditure reported.

Section 423. KRS 139.5384 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall, within sixty (60) days following the receipt of an application for a credit for sales and use tax paid, calculate the total expenditures of the motion picture production company for which there is documentation for funds expended in the Commonwealth, calculate the amount of credit to which the applicant is entitled, and certify the same to the secretary of the Finance and Administration Cabinet. In the case of an audit, as provided for in KRS 139.5386, the ***Department of*** Revenue[~~ Cabinet~~] shall certify the amount of the credit due to the secretary within one hundred eighty (180) days following the receipt of the motion picture production company's application.

(2) Upon receipt of the certification of the amount thereof from the ***Department of*** Revenue[~~ Cabinet~~], the secretary shall cause the refund of sales taxes paid to be remitted to the motion picture production company. For purposes of payment and funding thereof, the credit provided in KRS 139.5382 to 139.5386 shall be paid in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(3) The sales and use taxes paid by the motion picture production company for which a refundable tax credit is granted shall be deemed not to have been legally paid into the State Treasury, and the refund of the credit shall not be in violation of Section 59 of the Kentucky Constitution.

Section 424. KRS 139.5385 is amended to read as follows:

(1) Any tax credit, or part thereof, paid to a motion picture production company as a result of error by the ***Department of*** Revenue[~~ Cabinet~~] shall be repaid by such company to the secretary of the Finance and Administration Cabinet.

(2) Any tax credit, or part thereof, paid to a motion picture production company as a result of error or fraudulent statements made by the motion picture production company, shall be repaid by such company to the secretary of the Finance and Administration Cabinet, together with interest, at the tax interest rate provided for in KRS 131.010(6).

Section 425. KRS 139.5386 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] may require that reported expenditures and the application for the tax credit from a motion picture production company be subjected to an audit by the ***Department of*** Revenue[~~ Cabinet~~] auditors to verify expenditures.

(2) For companies in the business of producing films or television shows other than those which would qualify them for the credit under the definition of "motion picture production company" in KRS 139.5381, the ***department***[~~cabinet~~] may require separate accounting records for the reporting of expenditures made in connection with the application for a refundable tax credit.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate appropriate administrative regulations to carry out the intent and purposes of KRS 139.5382 to 139.5386.

Section 426. KRS 139.540 is amended to read as follows:

The taxes imposed by this chapter are due and payable to the ***department***[~~cabinet~~] monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

Section 427. KRS 139.550 is amended to read as follows:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the ***department***[~~cabinet~~] in a form the ***department***[~~cabinet~~] may prescribe.

(2) For purposes of the sales tax, a return shall be filed by every retailer or seller. For purposes of the use tax, a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.

(3) Returns shall be signed by the person required to file the return or by a duly authorized agent but need not be verified by oath.

(4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under rules as the ***department***[~~cabinet~~] shall provide for the efficient collection of the sales tax on sales.

(5) The return shall show the amount of the taxes for the period covered by the return and other information the ***department***[~~cabinet~~] deems necessary for the proper administration of this chapter.

Section 428. KRS 139.580 is amended to read as follows:

The person required to file the return shall deliver the return together with a remittance of the amount of the tax due to the

department[~~cabinet~~].

Section 429. KRS 139.590 is amended to read as follows:

(1) For purposes of facilitating the administration, payment, or collection of the taxes levied by this chapter, the ***department***[~~cabinet~~] may, within its discretion, permit or require returns or tax payments for periods other than those prescribed by KRS 139.540 and 139.550.

(2) Notwithstanding the provisions of KRS 139.550, any retailer who desires to file his return on a quarterly basis shall make application in writing to the ***department***[~~cabinet~~] at least ninety (90) days prior to the due date of such quarterly return. When permitted, quarterly returns shall be filed in such manner as the ***department***[~~cabinet~~] may prescribe. No retailer may change from a quarterly reporting system to monthly reporting without authorization of the ***department***[~~cabinet~~].

(3) In no case shall a retailer be permitted to file quarterly unless monthly payments for the immediately preceding month are made on the basis of taxable gross receipts or total sales price of property used, consumed, or stored, as the case may be.

Section 430. KRS 139.600 is amended to read as follows:

For the purposes of the sales tax, gross receipts from rentals or leases of tangible personal property shall be reported and the tax paid in accordance with such rules and regulations as the ***department***[~~cabinet~~] may prescribe.

Section 431. KRS 139.610 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the ***department***[~~cabinet~~], extend the time for filing the return or paying the tax for a period not exceeding thirty (30) days.

(2) Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

Section 432. KRS 139.620 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the taxpayer, the excess shall be assessed by the ***department***[~~cabinet~~] within four (4) years from the date the return was filed, except as provided in subsection (2), and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the ***department***[~~cabinet~~].

(2) For the purposes of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in subsection (1) as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this chapter.

Section 433. KRS 139.640 is amended to read as follows:

In making a determination of tax liability the ***department***[~~cabinet~~] may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

Section 434. KRS 139.660 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with this chapter, the ***department***[~~cabinet~~] may require any person subject thereto to place with it such security as the ***department***[~~cabinet~~] may determine. The amount of the security shall be fixed by the ***department***[~~cabinet~~] but, except as provided in subsection (2), shall not be greater than twice the estimated average liability of persons filing returns for quarterly periods or three (3) times the estimated average liability of persons required to file returns for monthly periods, determined in such manner as the ***department***[~~cabinet~~] deems proper.

(2) In case of persons habitually delinquent in their obligations under this chapter, the amount of the security shall not be greater than three (3) times the average liability of persons filing returns for quarterly periods or five (5) times the average liability of persons required to file returns for monthly periods.

(3) The limitations herein provided apply regardless of the type of security placed with the ***department***[~~cabinet~~].

(4) The amount of the security may be increased or decreased by the ***department***[~~cabinet~~] subject to the limitations herein provided.

(5) (a) The ***department***[~~cabinet~~] may sell the security at public auction if it becomes necessary to do so in order to recover any tax, interest or penalty due. Security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may, however, be sold by the ***department***[~~cabinet~~] at a private sale at a price not lower than the prevailing market price thereof.

(b) The ***department***[~~cabinet~~] shall give notice of the date, time and place of the sale to the person who placed the security by certified mail addressed to him at his last known address as it appears in the records of the

department[~~cabinet~~], or delivery to such person.

(c) Delivery means handing it to such person or leaving it at his place of business with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the place of business is closed or the person to be served has no place of business, leaving it at his dwelling house with some person of suitable age and discretion residing therein. Said notice, if by certified mail, shall be postmarked no later than ten (10) days prior to said sale; if by delivery, said notice shall be given no later than ten (10) days prior to said sale.

(6) Upon any sale any surplus above the amounts due shall be returned to the person who placed the security.

Section 435. KRS 139.670 is amended to read as follows:

If any retailer liable for any amount under this chapter sells out his business or stock of goods, or otherwise quits business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the ***department***[~~cabinet~~] showing that it has been paid or a certificate stating that no amount is due.

Section 436. KRS 139.680 is amended to read as follows:

(1) If the purchaser of a business or stock of goods fails to withhold the purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within sixty (60) days after receiving a written request from the purchaser for a certificate, or within sixty (60) days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than ninety (90) days after receiving the request, the ***department***[~~cabinet~~] shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the ***department***[~~cabinet~~] of the amount that must be paid as a condition to issuing the certificate.

(2) Failure of the ***department***[~~cabinet~~] to mail the notice will release the purchaser from any further obligation to withhold the purchase price as above provided.

(3) The time within which the obligation of a successor may be enforced shall start to run at the time the retailer sells out his business or stock of goods or at the time that the determination against the retailer becomes final, whichever event occurs the later.

Section 437. KRS 139.700 is amended to read as follows:

The ***department***[~~cabinet~~] may, in its discretion, upon application authorize the collection of the tax imposed herein by any retailer not engaged in business within this state who, to the satisfaction of the ***department***[~~cabinet~~] furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued a permit to collect such tax in such manner, and subject to such regulation and agreements as the ***department***[~~cabinet~~] shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property sold to his knowledge for use within this state, in the same manner and subject to the same requirements as a retailer engaged in business within this state.

Section 438. KRS 139.710 is amended to read as follows:

The ***department***[~~cabinet~~] shall administer the provisions of this chapter and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes levied by this chapter, conferred generally upon the ***department***[~~cabinet~~] by the Kentucky Revised Statutes including Chapters 131, 134, and 135.

Section 439. KRS 139.720 is amended to read as follows:

(1) Every seller, every retailer, and every person storing, using and otherwise consuming in this state tangible personal property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the ***department***[~~cabinet~~] may require.

(2) Every such seller, retailer, or person who files the returns required under this chapter shall keep such records for not less than four (4) years from the making of such records unless the ***department***[~~cabinet~~] in writing sooner authorizes their destruction.

Section 440. KRS 139.730 is amended to read as follows:

In the administration of the sales and use tax, the ***department***[~~cabinet~~] may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property, the storage, use, or other consumption of which is subject to the tax. The report shall be filed at the time specified by the ***department***[~~cabinet~~] and shall contain such information as the ***department***[~~cabinet~~] may require.

Section 441. KRS 139.735 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall not promulgate any administrative regulation or policy either written or unwritten whose provisions are more stringent than the provisions of KRS 139.270 and 103 KAR 31.030 regarding the good faith provisions for resale certificates, exemption certificates and direct pay authorizations.

(2) It shall be mandatory upon the ***Department of*** Revenue[~~ Cabinet~~] during any audit process to honor resale certificates, exemption certificates and direct pay authorizations when executed according to the good faith provisions defined and described in KRS 139.270 and 103 KAR 31.030.

Section 442. KRS 139.740 is amended to read as follows:

(1) No judgment shall be entered and no garnishment or attachment shall be permitted by any court in this Commonwealth in

an action for the collection of a debt arising out of the sale of tangible personal property unless an affidavit containing a certificate of service is executed by the plaintiff to the effect that all use taxes due the Commonwealth have been paid.

(2) Prior to the filing of the affidavit, required under subsection (1) of this section, the plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail, serve upon the ***department***[~~cabinet~~] a copy of the affidavit. Within fifteen (15) days from the date of the filing of the affidavit the ***department***[~~cabinet~~] may file a counteraffidavit. In such event no judgment shall be entered or garnishment or attachment issued until proof has been taken concerning the matters at issue in the affidavit and counteraffidavit.

(3) In the event the use tax levied by this chapter is found to be due and unpaid the plaintiff may elect to pay the tax to the ***department***[~~cabinet~~], and the amount of the tax paid by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff does not elect to pay the use tax found to be due and unpaid, judgment for the amount of the tax shall be awarded to the Commonwealth.

(4) Any judgment awarded to the Commonwealth under this section shall constitute a prior claim to any judgment obtained by the plaintiff.

(5) Tax as defined herein includes interest accrued thereon at the tax interest rate as defined in KRS 131.010(6).

(6) The provisions of this section shall not apply to a plaintiff holding a retail permit issued pursuant to this chapter.

Section 443. KRS 139.760 is amended to read as follows:

(1) Whenever any person fails to comply with any provisions of this chapter or any rule or regulation of the ***department***[~~cabinet~~] relating to the provisions of this chapter, the ***department***[~~cabinet~~] may revoke or suspend any one (1) or more of the permits held by the person.

(2) The ***department***[~~cabinet~~] shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this chapter and the regulations relating thereto.

(3) No suit shall be maintained in any court to restrain or delay the collection or payment of any tax levied by this chapter.

Section 444. KRS 139.770 is amended to read as follows:

(1) The taxes paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the ***department***[~~cabinet~~] and shall contain such information as the ***department***[~~cabinet~~] may require.

(3) No taxpayer or certified service provider as provided by KRS 139.795 shall be entitled to a refund or credit of the taxes paid pursuant to the provisions of this chapter where the taxes have been collected from a purchaser as provided by KRS 139.210 and 139.340, unless the amount of taxes collected from the purchaser are refunded to the purchaser by the taxpayer or certified service provider as provided by KRS 139.795 who paid the taxes to the State Treasury.

(4) Where applicable, the amount of any claim for refund or credit shall be reduced by the amount deducted by the taxpayer or certified service provider as provided by KRS 139.795 pursuant to KRS 139.570 at the time the taxes were paid to the State Treasury.

Section 445. KRS 139.785 is amended to read as follows:

(1) The ***department***[~~cabinet~~] is authorized and directed to enter into the agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. To further the agreement, the ***department***[~~cabinet~~] is authorized to act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

(2) The ***department***[~~cabinet~~] is further authorized to take other actions reasonably required to implement the provisions set forth in KRS 139.780 to 139.795. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services to further the cooperative agreement. Notwithstanding the provisions of KRS Chapter 13A, the ***department***[~~cabinet~~] may issue educational bulletins to the extent necessary to enhance the understanding of and compliance with terms of the agreement.

(3) The ***commissioner of the Department of Revenue***[~~secretary of the cabinet~~] or the ***commissioner's***[~~secretary's~~] designee, the state budget director or the director's designee, and two (2) legislators are authorized to represent this state before the other states that are signatories to the agreement. One (1) member of the Senate shall be appointed by the President of the Senate, and one (1) member of the House of Representatives shall be appointed by the Speaker of the House of Representatives.

Section 446. KRS 139.789 is amended to read as follows:

The ***department***[~~cabinet~~] shall not enter into the agreement unless the agreement requires each state to abide by the following requirements:

(1) The agreement shall set restrictions to achieve more uniform state rates through the following:

    (a) Limiting the number of state rates;

(b) Limiting the application of maximums on the amount of state tax that is due on a transaction; and

(c) Limiting the application of thresholds on the application of state tax.

(2) The agreement shall establish uniform standards for the following:

(a) The sourcing of transactions to taxing jurisdictions;

(b) The administration of exempt sales;

(c) The allowances a seller can take for bad debts; and

(d) Sales and use tax returns and remittances.

(3) The agreement shall require states to develop and adopt uniform definitions of sales and use tax terms. The definitions shall enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.

(4) The agreement shall provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

(5) The agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory state will not be used as a factor in determining whether the seller has nexus with a state for any tax.

(6) The agreement shall provide for a reduction of the burdens of complying with local sales and use taxes through the following:

(a) Restricting variances between the state and local tax bases;

(b) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(c) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(d) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(7) The agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers.

(8) The agreement shall require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance under the laws of the member state, with all provisions of the agreement while a member.

(9) The agreement shall require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(10) The agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the agreement.

Section 447. KRS 139.980 is amended to read as follows:

(1) Any person who violates any provision of this chapter shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the ***department***[~~cabinet~~].

Section 448. KRS 139.990 is amended to read as follows:

(1) Any person who executes:

(a) A resale certificate for property in accordance with KRS 139.270 knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter;

(b) An exemption certificate for property in accordance with KRS 139.270, knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner;

(c) A direct pay authorization for property not in accordance with 103 KAR 31.030; or

(d) An MPU exemption form or Direct Mail Form issued not in accordance with the provisions KRS 139.776 or 139.777;

shall be guilty of a Class B misdemeanor.

(2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, shall be guilty of a Class B misdemeanor.

(3) Any person who violates any of the provisions of KRS 139.220, 139.380, or 139.700 shall be guilty of a Class B misdemeanor.

(4) Any person who violates any of the regulations promulgated by the ***department***[~~cabinet~~] shall be guilty of a Class B

misdemeanor.

(5) Any person, business, or motion picture production company falsifying expenditure reports, applications, or any other statements made in securing the tax credit afforded by KRS 139.5382 to 139.5386 shall be guilty of a Class D felony. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by KRS 139.5382 to 139.5386.

Section 449. KRS 140.040 is amended to read as follows:

(1) Whenever any person shall exercise a power of appointment derived from any disposition of property (whether by will, deed, trust agreement, contract, insurance policy or other instrument) regardless of when made, such appointment shall be deemed a transfer taxable under the provisions of this chapter in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same in whole or in part, within the time provided therefor, a transfer taxable under the provisions of this chapter shall be deemed to take place to the person or persons receiving such property as a result of such omission or failure to the same extent that such property would have been subject to taxation if it had passed under the will of the donee of such power. The time at which such transfer shall be deemed to take place, for the purpose of taxation, shall be governed by the provisions of subsections (2) to (4) of this section.

(2) In the case of a power of appointment which passes to the donee thereof at the death of the donor, under any instrument, and if the donor dies on or after April 24, 1936, the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donor and the assessment be made at that time against the life interest of the donee and the remainder against the corpus. The value of the property to which the power of appointment relates shall be determined as of the date of the death of the donor and shall be taxed at the rates and be subject to the exemptions in effect at the death of the donor. The determination of the applicable rates and exemptions (in effect at the death of the donor) shall be governed by the relationship of the beneficiary to the donee of the power of appointment. In the event the payment of the tax at the death of the donor should operate to provide an exemption for any beneficiary of a donee not authorized by KRS 140.080, then such exemption shall be retrospectively disallowed at the time of the death of the donee. It is further provided that the remainder interest passing under the donee's power of appointment, whether exercised or not, shall be added to and made a part of the distributable share of the donee's estate for the purpose of determining the exemption and rates applicable thereto.

(3) In all cases other than that described in subsection (2) the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donee. In such cases, the value of the property to which the power of appointment relates shall be determined as of the date of the death of the donee and shall be taxed at the rates and be subject to the exemptions in effect at the death of the donee. The determination of the applicable rates and exemptions (in effect at the death of the donee) shall be governed by the relationship of the beneficiary to the donee of the power of appointment.

(4) The provisions of subsection (2) shall not preclude the taxation, at the death of the donee, of any transfer made by means of a power of appointment if such transfer was not in fact reported to or a tax assessed thereon by the ***Department of*** Revenue[~~ Cabinet~~] within the period of limitation prescribed by KRS 140.160. If the transfer by the power of appointment is not so reported or a tax assessed thereon, the period of limitation prescribed in KRS 140.160 shall not begin to run until the death of the donee of such power.

(5) The amendments to this section, adopted by the 1948 General Assembly, shall apply to all powers of appointment whether created before or after the effective date of said amendments. It is the declared intention of the General Assembly to impose a tax upon every transfer of property by means of a power of appointment, regardless of when or how created, and it is the declared intention of the General Assembly that the use of the power of appointment device shall not permit the transfer of property, to which such a power relates, to escape thereby the payment of state inheritance taxes.

Section 450. KRS 140.080 is amended to read as follows:

(1) The following exemptions chargeable against the lowest bracket or brackets of inheritable interests shall be free from any tax under the preceding provisions of this chapter:

  (a) Surviving spouse, total inheritable interest. Effective as to decedents dying after August 1, 1985, notwithstanding anything in this chapter to the contrary, if the decedent's personal representative (or trustee or transferee, absent a personal representative) shall so elect, the spouse's inheritable interest shall include the entire value of any trust or life estate which is in a form that qualifies for the federal estate tax marital deductions under section 2056(b)(5) or 2056(b)(7) of the Internal Revenue Code of 1954, as amended through December 31, 1984, regardless of whether or not the federal estate tax marital deduction is elected by the decedent's personal representative. To be valid, the election referred to in the sentence immediately preceding must be made in the form prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and must be filed on or before the due date of the tax return (plus extensions) or with the first tax return filed, whichever last occurs;

  (b) Class A beneficiaries as defined in KRS 140.070, other than the surviving spouse, of estates of decedents dying prior to July 1, 1995, as follows:

    1. Infant child by blood or adoption, $20,000;

  2. Child by blood who has been declared mentally disabled by a court of competent jurisdiction, $20,000;
  3. Child adopted during infancy who has been declared mentally disabled by a court of competent jurisdiction, $20,000; or a
  4. Child adopted during adulthood who was reared by the decedent during infancy and who has been declared mentally disabled by a court of competent jurisdiction, $20,000;
  5. Parent, $5,000;
  6. Child by blood, $5,000;
  7. Stepchild, $5,000;
  8. Child adopted during infancy, $5,000;
  9. Child adopted during adulthood who was reared by the decedent during infancy, $5,000; or a
  10. Grandchild who is the issue of a child by blood, the issue of a stepchild, the issue of a child adopted during infancy or the issue of a child adopted during adulthood who was reared by the decedent during infancy, $5,000;

(c) Class A beneficiaries as defined in KRS 140.070, other than the surviving spouse, of estates of decedents dying on or after July 1, 1995, shall be as follows:

  1. For decedents dying between July 1, 1995, and June 30, 1996, the greater of the exemption established pursuant to paragraph (1)(b) of this section or one-fourth (1/4) of each beneficiary's inheritable interest;
  2. For decedents dying between July 1, 1996, and June 30, 1997, the greater of the exemption established pursuant to paragraph (1)(b) of this section or one-half (1/2) of each beneficiary's inheritable interest;
  3. For decedents dying between July 1, 1997, and June 30, 1998, the greater of the exemption established pursuant to paragraph (1)(b) of this section or three-fourths (3/4) of each beneficiary's inheritable interest; and
  4. For each decedent dying after June 30, 1998, each beneficiary's total inheritable interest;

(d) All persons of Class B, under KRS 140.070, $1,000; and

(e) All persons of Class C, under KRS 140.070, $500.

(2) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

Section 451. KRS 140.090 is amended to read as follows:

(1) In calculating the value of the distributive shares the following deductions and no others shall be allowed:

(a) Debts of the decedent, except debts secured by property not subject to the tax jurisdiction of Kentucky; and except debts barred by the statute of limitations;

(b) Taxes accrued and unpaid, except those on property not subject to the tax jurisdiction of Kentucky;

(c) Death duties paid to foreign countries;

(d) Federal estate taxes, in the proportion which the net estate in Kentucky subject to federal estate taxes bears to the total net estate everywhere subject to federal estate taxes; all calculations are subject to approval by the ***Department of*** Revenue[~~ Cabinet~~];

(e) Drainage, street, or other special assessments due and unpaid which are a lien on said property;

(f) Funeral, monument, and cemetery lot maintenance expenses actually paid not exceeding in total five thousand dollars ($5,000);

(g) Commission of executors and administrators in the amount actually allowed and paid;

(h) Cost of administration, including attorney's fees actually allowed and paid.

(2) Notwithstanding the provisions of KRS 404.040, the debts of a deceased wife, subject to the exception in subsection (1)(a), shall be allowed in calculating the distributive shares of her estate for purposes of this chapter, provided such debts are paid from the proceeds of her estate.

Section 452. KRS 140.100 is amended to read as follows:

(1) The Department of Insurance, on the application of the ***Department of*** Revenue[~~ Cabinet~~], shall determine, and certify in duplicate to the ***department***[~~cabinet~~], the value of any future or contingent estate, income or interest therein, limited, contingent, dependent or determinable upon the lives of persons in being, upon the facts contained in the application or other facts submitted by the ***department***[~~cabinet~~]. No fee shall be charged by the division for this service. The certificate shall be competent evidence that the method of computation therein is correct.

(2) The value of every future, contingent or limited estate, income or interest for the purpose of this chapter shall be determined by the rules, methods and standards of mortality and of value prescribed by the appropriate United States life mortality tables for ascertaining the value of life estates, annuities and remainder interests except that the rate of interest assessed in computing the present value of all future interests and contingencies shall be four percent (4%) per annum.

(3) When an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon such interest has not been fixed and determined, the value of the interest for the purpose of taxation shall be that amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which the annuitant or life tenant was entitled to the annuity or was in possession of the life estate. The tax on such annuities and life interests shall be payable out of the corpus of the estate, unless otherwise provided under the terms of the will.

(4) Notwithstanding anything in this chapter to the contrary, the value of a surviving spouse's interest in a trust or life estate which was exempt from Kentucky inheritance tax in the first spouse's estate pursuant to an election made under KRS 140.080(1)(a) shall be deemed to be equal to the entire value of the property held in the trust or life estate, at the surviving spouse's death, for Kentucky inheritance tax purposes in the surviving spouse's estate.

Section 453. KRS 140.110 is amended to read as follows:

(1) In the case of estates in expectancy which are contingent or defeasible, a tax shall be levied at the rate which, on the happening of the most probable contingencies or conditions named in the will, deed, trust agreement, contract, insurance policy, or other instrument, would be applicable under the provisions of this chapter. Moneys so collected shall be distributed as are other inheritance tax funds. If the property so taxed shall ultimately vest in possession in persons taxable at a lower rate, or in a person or a corporation exempt from taxation by this chapter, upon application by such beneficiary to the ***Department of*** Revenue[~~ Cabinet~~] for refund of any excess tax, the ***Department of*** Revenue[~~ Cabinet~~], after investigation, shall certify to the Finance and Administration Cabinet the amount of such refund. The Finance and Administration Cabinet shall refund such excess payment of tax in the same manner as other refunds are made.

(2) Where an estate or interest can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of divesting.

Section 454. KRS 140.160 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall have full supervision of the collection of all taxes due under the provisions of this chapter, including the power to institute suit in this and other states. It may employ attorneys and other persons necessary to carry out the full intent and purpose of this chapter. The ***department***[~~cabinet~~] shall furnish, upon application, blank forms covering information as may be necessary to determine the amount of tax due the state on the transfer of all property subject to tax.

(2) The ***department***[~~cabinet~~] may cause personal representatives or beneficiaries to file all statements required by this chapter with the clerks of the proper courts and with the ***department***[~~cabinet~~], and may require them to furnish any additional information deemed necessary to support the computation of the amount of tax that should be paid by the estate. The personal representative, or the beneficiaries in the absence of a personal representative, shall compute the taxes imposed by this chapter on the tax return provided by the ***department***[~~cabinet~~] when:

  (a) 1. A United States estate tax return is required to be filed under federal law and applicable regulations; and

    2. The estate includes property over which Kentucky has jurisdiction for purposes of the taxes imposed by this chapter; or

  (b) Any assets from the estate subject to the taxes imposed by this chapter pass to a beneficiary taxable under KRS 140.070.

The tax return, when required, shall be filed with the ***department***[~~cabinet~~] within eighteen (18) months after the death of the decedent or at the time payment of the tax is made pursuant to KRS 140.210.

(3) Except as herein provided, no action to enforce the collection of the tax imposed by this chapter shall be commenced more than ten (10) years after the cause of action first accrued. In case the settlement of an estate is delayed because of litigation or other unavoidable cause, the delay shall suspend the limitation, prescribed by this subsection, until the cause of delay is removed. In the case of a fraudulent return or any other fraudulent representation affecting the amount of or the liability for the tax imposed by this chapter notwithstanding any provision of limitation provided elsewhere, the tax due by reason thereof may at any time be assessed and collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 455. KRS 140.165 is amended to read as follows:

The ***department***[~~cabinet~~] may make such audits, appraisals, and examinations of records according to KRS 131.130 to properly supervise the collection of all taxes due under the provisions of this chapter. A completed tax return with full payment attached shall be final one (1) year after receipt by the ***department***[~~cabinet~~] unless an audit has been initiated with due notice to the personal representative, except:

(1) If any assets of the estate were not reported on the tax return filed with the ***department***[~~cabinet~~], or

(2) If any information was not revealed to the ***department***[~~cabinet~~] which would affect the amount of tax due.

Section 456. KRS 140.170 is amended to read as follows:

(1) The District Court, upon the request of the personal representative or any interested party, shall appoint some competent person as appraiser of the estate. The appraiser shall give notice to all persons having an interest in the estate and to such other persons as the court may by order direct, and shall then appraise the property belonging to the estate. His report shall be filed with the court and a copy thereof with the ***Department of*** Revenue[~~ Cabinet~~]. He shall be paid for his services out

of the funds of the estate, on the certification of the court, the amount to be fixed by that court. The total compensation of the appraiser shall not exceed one-tenth of one percent (0.1%) of the total appraised value of the estate for inheritance tax purposes, but there shall be a minimum allowance of five dollars ($5), together with the appraiser's actual and necessary traveling expenses.

(2) After investigation, the ***department***[~~cabinet~~] may change the value of the estate for inheritance taxes and advise the representatives of the estate of this changed valuation after the receipt of a completed tax return and full payment as shown by the tax return.

(3) No appraiser shall accept any fee or reward from a personal representative, trustee, legatee, next of kin or heir of the decedent, or from any other person liable to pay the tax or any portion thereof.

(4) No person shall willfully and knowingly subscribe to or make any false statement of fact, or knowingly subscribe to or exhibit any false paper or false report with intent to deceive any appraiser.

(5) The ***department***[~~cabinet~~] shall keep a record of all returns, reports, and schedules attached thereto required by this chapter for twelve (12) years.

Section 457. KRS 140.180 is amended to read as follows:

If real property of a decedent is passed to another person so as to become subject to the tax, his personal representative or trustee shall inform the ***department***[~~cabinet~~] thereof within six (6) months after his appointment, or if the fact is not known to him within that time, then within one (1) month after the fact becomes known to him.

Section 458. KRS 140.210 is amended to read as follows:

(1) All taxes imposed by this chapter, unless otherwise provided in this chapter, shall be due at the death of the decedent and shall be payable to the ***Department of*** Revenue[~~Cabinet~~] within eighteen (18) months thereafter. If they are paid within nine (9) months, a discount of five percent (5%) shall be allowed, and if they are paid within eighteen (18) months, no interest shall be charged and collected thereon. If the taxes due are not paid within eighteen (18) months, interest at the tax interest rate as defined in KRS 131.010(6) shall be paid from the expiration of the eighteen (18) months until payment is actually made to the ***department***[~~cabinet~~].

(2) In all cases where the personal representatives or trustees do not pay the taxes within eighteen (18) months from the death of the decedent, they shall be required to give bond, in the form and to the effect prescribed by the ***department***[~~cabinet~~], for the payment of the taxes and interest.

Section 459. KRS 140.222 is amended to read as follows:

(1) When the net tax due from a beneficiary's distributive share exceeds five thousand dollars ($5,000), the beneficiary may elect to pay the inheritance tax in ten (10) equal installments. The first installment shall be due at the time the return is filed with succeeding payments due in annual installments beginning one (1) year after the return is filed.

(2) The portion of the tax deferred under this section shall be charged with interest at the tax interest rate as defined in KRS 131.010(6) commencing eighteen (18) months after the date of death.

(3) When the beneficiary elects to pay the tax on his share as provided in this section, such election must be made in writing and signed by the beneficiary and must be filed with the ***Department of*** Revenue[~~Cabinet~~] at the time of filing the tax return for the decedent's estate under KRS 140.160(2). The filing of the election together with payment of the first installment shall relieve the personal representative or trustee of the estate from further liability for the tax payments deferred under this section and the bond requirements of KRS 140.210, subject to the final approval by the ***Department of*** Revenue[~~Cabinet~~] of all other taxes due under this chapter.

(4) A beneficiary electing to defer the payment of taxes under this section shall be personally liable for the amount of deferred taxes until paid.

(5) The period of limitations for actions to enforce the collection of taxes imposed by this chapter as provided by KRS 140.160(3) shall be suspended for the period of time for deferred payment granted by this section.

Section 460. KRS 140.224 is amended to read as follows:

(1) Where a beneficiary elects to pay the inheritance tax on the installment basis as provided in this chapter, such beneficiary may be required to post sufficient security at any time the ***department***[~~cabinet~~] reasonably believes collection of the tax may be in jeopardy.

(2) Failure of a beneficiary to pay any installment due or to post the required security shall cause all installments to become immediately due and payable.

Section 461. KRS 140.270 is amended to read as follows:

(1) In the absence of administration in this state upon the estate of a nonresident, the ***Department of*** Revenue[~~Cabinet~~], at the request of a personal representative duly appointed and qualified in the state of the decedent's domicile, or of a grantee under a conveyance made during the grantor's lifetime, and upon satisfactory evidence furnished by the personal representative or grantee, or otherwise, may determine whether or not any property of the decedent within this state is subject to the provisions of this chapter. If so, the ***department***[~~cabinet~~] may determine the amount of tax and adjust the same with the personal representative or grantee, and for that purpose may appoint an appraiser to appraise the property.

The expense of appraisal shall be charged upon the property in addition to the tax. The ***department's***[~~cabinet's~~] certificate of the amount of tax and its receipt for the amount therein certified may be filed with the county judge/executive of the county where the property is located, and when so filed shall be evidence of the payment of the tax to the extent of such certification. When the tax is not adjusted within six (6) months after the death of the decedent, the proper District Court, upon application of the ***department***[~~cabinet~~], shall appoint an administrator in this state.

(2) When evidence of ownership of intangible personal property belonging to a nonresident decedent is found to be physically located in this state, the ***Department of*** Revenue[~~ Cabinet~~] shall so inform the state official collecting death tax in the state of domicile of the decedent, if that state furnishes like information to the ***Department of*** Revenue[~~ Cabinet~~] of this state in a reciprocal manner.

Section 462. KRS 140.275 is amended to read as follows:

(1) It is hereby declared to be the legislative policy that Kentucky shall not be a party to interstate double taxation under the terms of the Kentucky inheritance and estate tax laws. Pursuant to this policy, the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] is hereby authorized to omit from the property subject to tax under those laws, any intangible personal property of a nonresident decedent (having a domicile in the United States) held in trust by a Kentucky trustee if the jurisdiction (state, territory or District of Columbia) in which the decedent was domiciled grants similar immunity to residents of Kentucky, but only in the event the personal representative shall present evidence that the tax has been or will be paid to the other jurisdiction. If another state, territory, or the District of Columbia of the United States constitutionally imposes a tax on the transfer of estates or of the distributive shares thereof, but grants immunity from the tax in respect of any intangible property of its resident decedents held in trust by a Kentucky trustee, then the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] is hereby authorized to exclude from the property subject to tax under the Kentucky inheritance and estate tax laws, the intangible personal property of a Kentucky resident held in trust in that jurisdiction but only in the event the personal representative shall present evidence that the tax has been or will be paid to the other jurisdiction.

(2) It is expressly provided, however, in view of the uncertainty now prevailing with respect to the correct interpretation of the Constitution of the United States regarding the jurisdiction of the several states, that the provisions of this section shall be inoperative under the second alternative until and unless an agreement, approved as to legality by the Attorney General, between the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] as agent for Kentucky and the appropriate administrative official of such other state, shall have been executed and an original copy thereof filed with the Kentucky ***Department of*** Revenue[~~ Cabinet~~].

(3) This section is intended to apply retroactively to all estates of decedents on or after April 25, 1936, which are subject to Kentucky inheritance tax laws.

Section 463. KRS 140.285 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] claims that a decedent was domiciled in Kentucky at the time of death and the taxing authorities of another state or states make a similar claim with respect to their state or states, the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] may enter into a written agreement with such taxing authorities and the executor, administrator or trustee, fixing the sum acceptable to the ***department***[~~cabinet~~] in full settlement of the inheritance or estate taxes imposable under this chapter. Such agreement shall also fix the sum acceptable to such other state or states in full settlement of the death taxes imposable by such state or states.

(2) If the aggregate amount payable under such agreement to the states involved is less than the maximum sum allowable as a credit to the estate against the federal estate tax imposed thereon, then the executor, administrator or trustee shall also pay to the State of Kentucky as an estate tax so much of the difference between such aggregate amount and the amount of such credit as the amount payable to Kentucky under the agreement bears to such aggregate amount.

Section 464. KRS 140.290 is amended to read as follows:

Whenever debts are proved against the estate of a decedent after the payment of legacies or distribution of property from which the tax has been deducted or upon which it has been paid, and a refund is made by the legatee, devisee, heir or next of kin, a proportion of the tax so deducted or paid shall be repaid to him, by the personal representative or trustee if the tax has not been paid to the ***Department of*** Revenue[~~ Cabinet~~], or by the ***department***[~~cabinet~~] if it has been so paid.

Section 465. KRS 140.320 is amended to read as follows:

If, within five (5) years after the death of the decedent, a qualified person sells, conveys, or otherwise transfers the ownership, directly or indirectly, of the qualified real estate to any person or persons other than another qualified person who is a joint owner or the qualified real estate is converted to a use other than agricultural or horticultural use, then the qualified persons to whom the property passed at the death of the decedent in whose estate the agricultural or horticultural value was reported shall cause to be paid, pursuant to administrative regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~], the additional inheritance tax that would have been due on the decedent's estate if fair market value had been used to compute the tax due on the estate rather than the agricultural or horticultural value, along with interest at the tax interest rate as defined in KRS 131.010(6).

Section 466. KRS 140.330 is amended to read as follows:

In the event the qualified real estate is reported for inheritance tax purposes at its agricultural or horticultural value and that real estate has been assessed at its agricultural or horticultural value for ad valorem tax purposes, then that assessment shall be presumed to be its agricultural or horticultural value for inheritance tax purposes. If, however, the real estate has not been so assessed for ad valorem tax purposes, then the agricultural or horticultural value shall be determined pursuant to KRS Chapter 132 and such regulations as may be promulgated by the ***Department of*** Revenue[~~ Cabinet~~] to determine horticultural or agricultural value for inheritance tax purposes.

Section 467. KRS 140.350 is amended to read as follows:

At such time as the ***Department of*** Revenue[~~ Cabinet~~] accepts the agricultural or horticultural value on qualified real estate comprising a portion of a decedent's estate and issues tax waivers thereon, it shall cause to be filed in the office of the county clerk of the county where the real estate or the greater portion thereof is located, on a form prescribed by the ***Department of*** Revenue[~~ Cabinet~~], a lien which on its face shall expire in five (5) years and the lien shall secure the payment of any additional tax which may become due as the result of the qualified real estate being sold to others than qualified persons or the qualified real estate being converted to other than a qualified use.

If additional taxes are due as the result of the real estate being transferred to other than a qualified person or its use is converted to other than agricultural or horticultural use, and the additional tax is not paid after assessment of the tax, within the time prescribed by the regulations of the ***Department of*** Revenue[~~ Cabinet~~], then the ***Department of*** Revenue[~~ Cabinet~~] may proceed to enforce the lien in accordance with law.

Section 468. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) ***"Commissioner"***[~~"Secretary"~~] means the ***commissioner of the Department of Revenue***[~~secretary of revenue~~];

(2) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2001, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

  (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

  (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

  (c) Include interest income derived from obligations of sister states and political subdivisions thereof;

  (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

  (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

  (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

  (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

  (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

  (i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:
   a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
   b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
   c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
   d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.
3. As used in this paragraph:
   a. "Distributions" includes, but is not limited to, any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
   b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
   c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
   b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.
2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted; and

(r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted; and

(l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 469. KRS 141.023 is amended to read as follows:

To facilitate tax computation and tax return preparation, the ***Department of*** Revenue[~~ Cabinet~~] may develop optional tax tables and specify the classes of taxpayers eligible to utilize the tables in the preparation of their returns.

Section 470. KRS 141.0405 is amended to read as follows:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

(a) 1. Is an electric power company as defined in KRS Chapter 136; or

2. Is an entity that owns or operates a coal-fired electric generation plant;

(b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020, or 141.040; and

(c) Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased that is subject to tax under KRS 143.020 and that is used to generate electric power.

(3) Incentive tons are calculated as the tons of coal purchased in the current year for which coal severance tax was paid minus the tons of coal purchased and used during the base year.

(4) The base year amount shall be equal to:

(a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

(b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased in the base year and the tons of coal purchased in the year for which the credit is being claimed. The ***Department of*** Revenue[~~ Cabinet~~] shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the ***Department of*** Revenue[~~ Cabinet~~] under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:

(a) KRS 141.040;

(b) KRS 141.020;

(c) KRS 136.070; and

(d) KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The ***Department of*** Revenue[~~ Cabinet~~] shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

Section 471. KRS 141.041 is amended to read as follows:

(1) There shall be allowed a credit against the tax imposed on any corporation subject to taxation under KRS 141.040 and which, on or after January 1, 1984, installs, modifies, and utilizes facilities located in Kentucky for generating steam or hot water for space-heating or materials processing or for providing direct heat for industrial processes in the following ways:

(a) Replacement of an existing heat-generating facility not capable of using coal as a fuel with one in which coal can be used;

(b) Erection of a heat-generating facility additional to any existing heat-generating facility or facilities and capable of using coal as a fuel;

(c) Refurbishment for coal utilization of heat-generating facilities which were at one time capable of using coal but which had been altered to allow use of other fuels;

(d) Alteration of an existing heat-generating facility not capable of utilizing coal in such ways as to allow the use of coal;

(e) Substitution of coal for other fuels in any heat-generating facility which on January 1, 1984, was in existence and capable of utilizing coal and other fuels. Substitution means the increased heat input in BTU from coal matched by equal decreases of heat input in equivalent measures to BTU from other fuels, based upon relative fuel usage in the calendar year preceding the year in which the substitution occurred.

(2) The amount of the allowable credit shall be equal to four and one-half percent (4.5%) of the purchase price of the coal subject to taxation under KRS Chapter 143 consumed or substituted in each eligible heating facility as described in subsection (1) of this section, minus any transporting cost included in the purchase price.

(3) The credit shall be allowed for ten (10) years consecutive from the date of the initial installation, modification, or utilization of any heat-generating facility installed or modified on and after January 1, 1984, as defined in subsection (1)(a), (b), (c), and (d) of this section or ten (10) years consecutive from the filing of a fuel-switching credit claim in subsection (1)(e) of this section.

(4) The credit allowable under this section shall be applied against the taxpayer's tax liability as provided in KRS 141.0205, and no part of the credit shall be applicable to the tax imposed by KRS 141.040 for any other taxable year.

(5) A corporation claiming the credit under this section must submit proof of the installation, modification, utilization or

substitution as required by regulations issued by the ***Department of*** Revenue[~~ Cabinet~~] prior to the claiming of such credit.

Section 472. KRS 141.042 is amended to read as follows:

(1) For all taxable years beginning on or after July 1, 1966, every corporation subject to taxation under KRS 141.040 shall make a declaration of estimated tax if the tax imposed by KRS 141.040 for the taxable year can reasonably be expected to exceed five thousand dollars ($5,000).

(2) The declaration required under subsection (1) shall contain the following information:

(a) The amount which is estimated as the amount of tax under KRS 141.040 for the taxable year;

(b) The excess of the amount estimated under paragraph (a) over five thousand dollars ($5,000), which excess for purposes of this section and KRS 141.044 and 141.205 shall be considered the estimated tax for the taxable year;

(c) Such other information as the ***department***[~~cabinet~~] by forms or regulations may prescribe.

(3) The declaration required under subsection (1) shall be filed with the ***department***[~~cabinet~~] on or before June 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year;

(b) After September 1 of the taxable year, the declaration shall be filed on or before December 15 of the taxable year.

(4) A corporation may make amendments of a declaration filed during the taxable year in accordance with regulations prescribed by the ***department***[~~cabinet~~]. An amendment of a declaration may be filed in any interval between the installment dates prescribed for that taxable year but only one (1) amendment may be filed in each such interval. If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the increase or decrease of the estimated tax by reason of such amendment. If any amendment is made after September 15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid in full at the time of making such amendment.

(5) A corporation with a taxable year of less than twelve (12) months shall make a declaration in accordance with regulations prescribed by the ***department***[~~cabinet~~].

(6) The ***department***[~~cabinet~~] may grant a reasonable extension of time for filing declarations and paying the estimated tax under such rules and regulations as it may prescribe. If any extension operates to postpone a payment of estimated tax, interest at the rate of eight percent (8%) per annum shall be collected.

Section 473. KRS 141.050 is amended to read as follows:

(1) Except to the extent required by differences between this chapter and its application and the federal income tax law and its application, the administrative and judicial interpretations of the federal income tax law, computations of gross income and deductions therefrom, accounting methods, and accounting procedures, for purposes of this chapter shall be as nearly as practicable identical with those required for federal income tax purposes. Changes to federal income tax law made after the Internal Revenue Code reference date contained in KRS 141.010(3) shall not apply for purposes of this chapter unless adopted by the General Assembly.

(2) Every person subject to the provisions of this chapter shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the ***department***[~~cabinet~~] from time to time may prescribe. Whenever the ***department***[~~cabinet~~] judges it necessary, it may require such person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the ***department***[~~cabinet~~] deems sufficient to show whether or not such person is liable for tax, and the extent of such liability.

(3) The ***commissioner***[~~secretary~~] or his authorized agent or representative, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any taxpayers, may require the attendance of the taxpayer or of any other person having knowledge in the premises.

(4) The ***department***[~~cabinet~~] shall prescribe the forms and reports necessary to the proper administration of any and all provisions of this chapter, and shall promulgate such rules and regulations necessary to effectively carry out the provisions of this chapter.

Section 474. KRS 141.068 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;

(b) "Investor" has the same meaning as set forth in KRS 154.20-254;

(c) "Investment fund" has the same meaning as set forth in KRS 154.20-254;

(d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-254; and

(e) "Tax credit" means the credits provided for in KRS 154.20-258.

(2) (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under KRS 154.20-258 against the income tax due computed as provided by KRS 141.020 or 141.040, respectively.

(b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of KRS 154.20-258.

(3) (a) In the case of an investor that is an S-corporation, partnership, limited partnership, limited liability company, or limited liability partnership, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned among the shareholders, partners, or members thereof, as applicable, at the same ratio as the shareholders', partners', or members' distributive shares of income are determined for the tax year during which the amount of the credit is certified by the authority.

(b) The amount of the tax credit apportioned to each shareholder, partner, or member that may be claimed in any tax year of the shareholder, partner, or member shall be determined in accordance with the provisions of KRS 154.20-258.

(4) (a) In the case of an investor that is a trust, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.20-258.

(5) The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations under KRS Chapter 13A adopting forms and procedures for the reporting and administration of credits authorized by KRS 154.20-258.

Section 475. KRS 141.070 is amended to read as follows:

(1) Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of his net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited on his return with the income tax so paid by him to the other state, upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment, except that application of such credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored.

(2) An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020(4) if the laws of the state of which such individual was a resident at the time such income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to such state, if the state of residence of such nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner preclude the ***Department of*** Revenue[~~ Cabinet~~] from requiring any information reports pursuant to KRS 141.150(2).

Section 476. KRS 141.072 is amended to read as follows:

The designation for a political party shall appear on the face of the individual income tax return. Fifty cents ($0.50) of any designation pursuant to KRS 141.071 shall be reserved for remittance to the appropriate official of the local governing authority of the designated political party within the taxpayer's resident county. The remainder of the designation shall be reserved for remittance to the appropriate official of the state governing authority of the designated political party. The ***commissioner of the Department of Revenue***[~~secretary of revenue~~] shall annually certify by December 1 all such designated amounts to be paid by the State Treasurer, and the Treasurer shall annually remit by the following January 1 such funds to the appropriate official of the state and local governing authorities of the designated political party.

Section 477. KRS 141.073 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such rules and regulations as may be necessary to effectively administer the provisions of KRS 141.071 and 141.072.

Section 478. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the corporation and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the corporation's regular trade or business operations;

(b) "Commercial domicile" means the principal place from which the trade or business of the corporation is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "Nonbusiness income" means all income other than business income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;

(g) "Sales" means all gross receipts of the corporation not allocated under subsections (3) through (7) of this section;

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.

(3) Rents and royalties from real, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (4) through (7) of this section.

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the corporation, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(d) Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.

(5) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the corporation's commercial domicile is in this state.

(6) Interest is allocable to this state if the corporation's commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.

(8) Except as provided for in subsection (9) of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used.

(a) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor.

1. Property owned is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero (0) the property shall be valued by the ***department***[~~cabinet~~] pursuant to administrative regulations promulgated by the ***department***[~~cabinet~~]. Property rented is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals, provided that the rental and subrentals are reasonable. If the ***department***[~~cabinet~~] determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero (0) rate is charged, the ***department***[~~cabinet~~] may determine and apply the rental rate as will reasonably reflect the value of the property rented by the corporation.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the ***department***[~~cabinet~~] may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the property.

(b) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the corporation for compensation, and the denominator of which is the total compensation paid or payable by the corporation everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) 1. The sales factor is a fraction, the numerator of which is the total sales of the corporation in this state during the tax period, and the denominator of which is the total sales of the corporation everywhere during the tax period.

2. Sales of tangible personal property are in this state if:

a. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

b. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(9) (a) If the allocation and apportionment provisions of this section do not fairly represent the extent of the corporation's business activity in this state, the corporation may petition for or the ***department***[~~cabinet~~] may require, in respect to all or any part of the corporation's business activity, if reasonable:

1. Separate accounting;

2. The exclusion of any one (1) or more of the factors;

3. The inclusion of one (1) or more additional factors which will fairly represent the corporation's business activity in this state; or

4. The employment of any other method to effectuate an equitable allocation and apportionment of income.

(b) A corporation may elect the allocation and apportionment methods for the corporation's business income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.

1. All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:

a. Total business income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period.

b. For purposes of subdivision a. of this subparagraph, Kentucky receipts shall be determined by multiplying total receipts for the tax period from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

2. All business income derived directly or indirectly from the sale of securities brokerage services by a

business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in KRS 154.655(2), shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:

a. The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year; and

b. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(10) Public service companies and financial organizations required by KRS 141.010(14)(b) to allocate and apportion net income shall allocate and apportion such income as follows:

(a) Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(b) Business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used. The payroll factor shall be determined as provided in subsection (8)(b) of this section. The property factor and sales factor shall be determined as provided by administrative regulations promulgated by the ***department***[~~cabinet~~].

(c) An affiliated group electing to file a consolidated return under KRS 141.200(3) that includes a public service company or financial organization shall determine the amount of payroll to be included in the apportionment factor as provided in subsection (8)(b) of this section. The amount of property and sales of the public service company or financial organization to be included in the apportionment factors of the affiliated group shall be determined in accordance with administrative regulations promulgated by the ***department***[~~cabinet~~] under paragraph (b) of this subsection.

Section 479. KRS 141.150 is amended to read as follows:

(1) Every corporation subject to the jurisdiction of this state, unless excused by the ***department***[~~cabinet~~], shall render a correct report of its payments of dividends to residents of this state, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(2) Every person subject to the jurisdiction of this state, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries and employers, making payment to another person, domiciled in this state, of interest, rent, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits and income not subject to withholding provisions contained in KRS 141.310 of six hundred dollars ($600) or more in any taxable year, shall render a true and accurate report to the ***department***[~~cabinet~~] of the payments made. Every person subject to the jurisdiction of this state, in whatever capacity acting, making payment of wages to another person domiciled in this state, shall render a true and accurate report to the ***department***[~~cabinet~~] of the payments made. In the case of such payments made by the state and its political subdivisions, the officers or employees having information as to such payments designated by the ***department***[~~cabinet~~] by the regulations hereinafter provided for shall make such reports. The reports shall be made under the regulations and in the form and manner and to the extent prescribed by the ***department***[~~cabinet~~], and shall set forth the amount of the gains, wages, profits and income, and the name and address of the recipient of the payments. The ***department***[~~cabinet~~] may also require any person to make information reports respecting nonresidents it believes to be subject to income tax.

(3) The reports contemplated by this section may be required, regardless of amounts, in the case of payments of dividends or interest upon bonds, mortgages, deeds of trust or other similar obligations of corporations. When necessary to make effective the provisions of this section, the name and address of the recipient of the income shall be furnished upon demand of the person paying the income. The provisions of this section shall not apply to the payment of interest on obligations of the United States or of this state, or the political subdivisions thereof.

Section 480. KRS 141.160 is amended to read as follows:

(1) All returns of income for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns of income shall be supplied by the ***department***[~~cabinet~~].

(2) Whenever, in the opinion of the ***department***[~~cabinet~~], it is necessary to examine the federal income tax return or a copy thereof of any taxpayer in order to audit his return, the ***department***[~~cabinet~~] may compel the taxpayer to produce for

inspection a copy of his federal return and all statements and schedules in support thereof. The ***department***~~[cabinet]~~ may also require copies of reports of adjustments made by the federal government.

Section 481. KRS 141.170 is amended to read as follows:

(1) The ***Department of*** Revenue~~[Cabinet]~~ may grant any taxpayer other than a corporation a reasonable extension of time for filing an income tax return whenever good cause exists, and shall keep a record of every extension. Except in the case of an individual who is abroad, no extension shall be granted for more than six (6) months. In the case of an individual who is abroad, the extension shall not be granted for more than one (1) year.

(2) A corporation may be granted an extension of not more than six (6) months for filing its income tax return, provided the corporation, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.

(3) If the time for filing a return is extended, the taxpayer shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed with the ***department***~~[cabinet]~~.

Section 482. KRS 141.180 is amended to read as follows:

(1) Every individual, except as otherwise provided in this section, having for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000), if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds five thousand dollars ($5,000) shall make to the ***department***~~[cabinet]~~ a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

(2) Any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be required to make a return only if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000). Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars ($5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

(3) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000).

(4) Notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of five thousand dollars ($5,000) or more, shall make a return.

(5) Any nonresident individual with gross income from Kentucky sources and a total gross income of five thousand dollars ($5,000) or over shall make a return.

(6) A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.

(7) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:

(a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section 6015 of the Internal Revenue Code; or

(b) It is shown that the spouse would have qualified for relief under the provisions of Section 6015 of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability.

(8) Any relief granted pursuant to paragraphs (a) and (b) of subsection (7) of this section shall not result in a tax overpayment to the spouse requesting relief.

(9) Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

Section 483. KRS 141.190 is amended to read as follows:

(1) Every fiduciary, except a receiver appointed by authority of law in possession of part only of the property of an individual, shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, setting forth therein such information as may be prescribed by the ***department***~~[cabinet]~~:

(a) Every individual having an adjusted gross income for the taxable year which exceeds five thousand dollars ($5,000);

(b) Every estate the gross income of which for the taxable year is twelve hundred dollars ($1,200) or over;

(c) Every trust the gross income of which for the taxable year is one hundred dollars ($100) or over.

(2) Any fiduciary required to make a return under this chapter shall be subject to all the provisions of this chapter that apply to individuals.

Section 484. KRS 141.200 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;

(b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;

(c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter.

(2) Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year, a member of an affiliated group electing to file a consolidated return in accordance with subsection (3) of this section.

(3) (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.

(b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income in accordance with KRS 141.010(13), and in determining the property, payroll, and sales factors in accordance with KRS 141.120.

(c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the ***department***[~~cabinet~~] and shall be submitted to the ***department***[~~cabinet~~] on or before the due date of the return including extensions for the first taxable year for which the election is made.

(d) Any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the ***department***[~~cabinet~~] and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the ninety-sixth consecutive calendar month expires.

(e) For each taxable year for which an affiliated group has made an election in accordance with paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.

(4) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.

(5) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The ***Department of*** Revenue[~~ Cabinet~~] may require a further or supplemental report of further information and data necessary for computation of the tax.

(6) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the ***department***[~~cabinet~~] shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible such assessment, the ***department***[~~cabinet~~] may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The ***department***[~~cabinet~~] may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

(7) For any taxable year ending on or after December 31, 1995, except as provided under subsection (3) of this section, nothing in this chapter shall be construed as allowing or requiring the filing of:

(a) A combined return under the unitary business concept; or

(b) A consolidated return.

(8) No assessment of additional tax due for any taxable year ending on or before December 31, 1995, made after December 22, 1994, and based on requiring a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(9) No claim for refund or credit of a tax overpayment for any taxable year ending on or before December, 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(10) No corporation or group of corporations shall be allowed to file a combined return under the unitary business concept or a

consolidated return for any taxable year ending before December 31, 1995, unless on or before December 22, 1994, the corporation or group of corporations filed an initial or amended return under the unitary business concept or consolidated return for a taxable year ending before December 22, 1994.

(11) This section shall not be construed to limit or otherwise impair the ***department's***[~~cabinet's~~] authority under KRS 141.205.

Section 485. KRS 141.205 is amended to read as follows:

(1) The ***department***[~~cabinet~~] may require either a consolidated return or a combined return from any or all corporations conducting inter-corporate transactions whenever the ***department***[~~cabinet~~] finds that such inter-corporate transactions reduce taxable net income, as defined in KRS 141.010(14), of the corporation(s) below the amount which would result if the transactions were at arm's length.

(2) The ***department***[~~cabinet~~] is authorized and empowered to assess the tax against any of the corporations whose income is included in the consolidated or combined return in such manner as it may determine necessary to prevent the avoidance of income tax.

(3) In the case of corporations not required to file a consolidated or combined return under subsection (1) of this section that carried on transactions with stockholders or affiliated corporations directly or indirectly, the ***department***[~~cabinet~~] shall adjust the net income of such corporations to an amount that would result if such transactions were carried on at arm's length.

Section 486. KRS 141.206 is amended to read as follows:

(1) Every partnership or S corporation owning property or engaging in business in Kentucky, shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal partnership return or S corporation return with the form prescribed and furnished by the ***department***[~~cabinet~~].

(2) Partnerships and S corporations shall determine taxable income in the same manner as in the case of an individual under KRS 141.010(9) to (11) and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of taxable income under this section and the computation of the partners or shareholders distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(3) Individuals or corporations carrying on a business as a partnership or S corporation shall be liable for income tax only in their individual or corporate capacities, and no income tax shall be assessed upon the income of any partnership or S corporation except as prescribed in KRS 141.040(5).

(a) Resident and nonresident individuals who are partners or S corporation shareholders must report and pay tax on the distributive share of net income, gain, loss, deduction, or credit, as determined in subsection (2) of this section, except as provided in subsections (4) and (5) of this section. Partnerships and S corporations may be required to withhold Kentucky income tax on the distributive share under administrative regulations issued by the ***department***[~~cabinet~~].

(b) Corporations which are partners must include their distributive share of net income, gain, loss, deduction or credit, as determined under subsection (2) of this section, except as provided in subsections (4) and (5) of this section.

(4) Resident and nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation carrying on business only in Kentucky are taxable on all items of income gain, loss, deduction or credit determined under subsection (2) of this section and reported as their distributive share from the partnership or S corporation.

(5) Nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation which does business within and without Kentucky are taxable on their proportionate share of the distributive income passed through the partnership or S corporation attributable to business done in Kentucky.

(a) Business done in Kentucky is determined by the ratio of gross receipts from sales to purchasers or customers in Kentucky or services performed in Kentucky to the total gross receipts from sales or service everywhere.

(6) Resident partners, S corporation shareholders and corporations which are partners in a multistate partnership or shareholders in a multistate S corporation are taxable on one hundred percent (100%) of the distributive share of income, gains, losses, deductions or credits.

(7) Resident individuals who are partners in a partnership or shareholders in an S corporation which does not carry on business in Kentucky are subject to tax under KRS 141.020 on federal net income, gain, deduction, loss or credit passed through the partnership or S corporation.

(8) S corporation for purpose of this section means a corporation which has elected for federal tax purposes to be taxed as an S corporation. An election for federal tax purposes is a binding election for Kentucky tax purposes.

(9) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection a "qualified investment partnership" means a partnership formed to hold only investments that produce income that would not be taxable to the nonresident individual if held or owned individually.

Section 487. KRS 141.210 is amended to read as follows:

(1) As used in this section and KRS 141.235, unless the context requires otherwise:

(a) "Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income as reported on the taxpayer's federal income tax return become final and unappealable; and

(b) "Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

(2) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the taxpayer, the additional tax shall be assessed and a notice of assessment mailed to the taxpayer by the ***department***[~~cabinet~~] within four (4) years from the date the return was filed, except as otherwise provided in this subsection.

(a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.

(b) In the case of a return where a taxpayer other than a corporation understates his net income or omits an amount properly includable in net income or both which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net income stated in the return the additional tax may be assessed at any time within six (6) years after the return was filed.

(c) In the case of a return where a corporation understates its taxable net income or omits an amount properly includable in taxable net income or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of taxable net income stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.

(d) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six months from the date the ***department***[~~cabinet~~] receives the final determination of the federal audit from the taxpayer, whichever is later.

(e) In the case of the assessment of additional tax resulting from a decrease of a net operating loss deduction or a capital loss deduction, resulting from the carryback of a loss which occurs in a taxable year beginning after December 31, 1993, the additional tax may be assessed at any time before the expiration of the times provided for in this subsection for assessing additional tax for the taxable year which resulted in the net operating loss or capital loss carryback.

The times provided in this subsection may be extended by agreement between the taxpayer and the ***department***[~~cabinet~~]. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. For taxable years beginning after December 31, 1993, any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(3) If any additional tax is assessed on account of any income which has been returned for taxation by any other taxpayer, the ***department***[~~cabinet~~], with the consent of the other taxpayer, his personal representatives, or heirs, shall reduce the amount of the additional tax assessed for each year by the amount of the income tax paid for that year by the other taxpayer on account of the income in question.

(4) Every taxpayer shall:

(a) Notify the ***department***[~~cabinet~~] in writing of every audit of the taxpayer's federal income tax return within thirty (30) days after the taxpayer has or should have had knowledge of the beginning of the audit by the Internal Revenue Service, and

(b) Submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.

Section 488. KRS 141.220 is amended to read as follows:

The full amount of the unpaid tax payable by any taxpayer, as appears from the face of the return, shall be paid to the ***department***[~~cabinet~~] at the time prescribed for filing the income tax return, determined without regard to any extension of time for filing the return.

Section 489. KRS 141.235 is amended to read as follows:

(1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.

(2) Any tax collected pursuant to the provisions of this chapter may be refunded or credited in accordance with the provisions of KRS 134.580, except that:

(a) In any case where the assessment period contained in KRS 141.210 has been extended by an agreement between the taxpayer and the ***department***[~~cabinet~~], the limitation contained in this subsection shall be extended accordingly.

(b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the taxpayer shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.

(c) If the claim for refund or credit relates to an overpayment attributable to a net operating loss carryback or capital loss carryback, resulting from a loss which occurs in a taxable year beginning after December 31, 1993, the claim for refund or credit shall be filed within the times prescribed in this subsection for the taxable year of the net operating loss or capital loss which results in the carryback.

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(3) Overpayments of taxes collected pursuant to KRS 141.300, 141.310, or 141.315 shall be refunded or credited with interest at the tax interest rate as defined in KRS 131.010(6). The interest shall not begin to accrue until ninety (90) days after the tax was paid, the return was filed, or the last day prescribed by law for filing the return, whichever is later.

(4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested in the ***commissioner***[~~secretary~~] or his authorized agent. Amounts directed to be refunded shall be paid out of the general fund.

Section 490. KRS 141.300 is amended to read as follows:

(1) Every individual shall, at the time prescribed in subsection (3), make a declaration of his estimated tax for the taxable year if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed five thousand dollars ($5,000) for the taxable year and his gross income or adjusted gross income can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180. No declaration of estimated tax shall be required if the estimated tax liability can reasonably be expected to be five hundred dollars ($500) or less.

(2) In the declaration required under subsection (1), the individual shall state:

(a) The amount which he estimates as the amount of tax under KRS 141.020 for the taxable year;

(b) The amount which he estimates as the credits for the taxable year under KRS 141.310, 141.315, and 141.065;

(c) The excess of the amount estimated under paragraph (a) over the amount estimated under paragraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year; and

(d) Other information as may be prescribed in administrative regulations promulgated by the ***department***[~~cabinet~~].

(3) The declaration required under subsection (1) shall be filed with the ***department***[~~cabinet~~] on or before April 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year; or

(b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year; or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(4) An individual may amend a declaration filed during the taxable year under subsection (3) pursuant to administrative regulations prescribed by the ***department***[~~cabinet~~].

(5) If, on or before January 31 of the succeeding taxable year an individual files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable, then, under administrative regulations prescribed by the ***department***[~~cabinet~~]:

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15 of the taxable year, the return shall, for the purposes of this section, be considered as the declaration; and

(b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, the return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) to be filed on or before January 15 of the taxable year.

(6) The ***department***[~~cabinet~~] shall promulgate administrative regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of an individual who is abroad, no extension shall be for more than six (6) months.

(7) If an individual is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian, conservator, or other person charged with the care of the person or property of the individual.

(8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

Section 491. KRS 141.305 is amended to read as follows:

(1) The estimated tax provided for in KRS 141.300 shall be paid as follows:

(a) If the declaration is filed on or before April 15 of the taxable year, the estimated tax shall be paid in four (4) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year;

(b) If the declaration is filed after April 15 and not after June 15 of the taxable year and is not required by subsection

(3) of KRS 141.300 to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three (3) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year;

(c) If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) equal installments. The first installment shall be paid at the time of the filing of the declaration and the second on January 15 of the succeeding taxable year;

(d) If the declaration is filed after September 15 of the taxable year, and is not required by subsection (3) of KRS 141.300 to be filed on or before September 15 of the taxable year, the declaration shall be filed and estimated tax shall be paid on or before January 15 of the succeeding taxable year;

(e) If the declaration is filed after the time prescribed in KRS 141.300, including cases where extensions of time have been granted, paragraphs (b), (c), and (d) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration has been filed within the time prescribed in subsection (3) of KRS 141.300, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed. Provided, that payments required under this section for purposes of the taxable year 1954 shall be limited to fifty percent (50%) of the total estimated tax for 1954.

(2) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the respective increase or decrease in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year any increase in the estimated tax by reasons thereof shall be paid at the time of making such amendment.

(3) At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(4) Payment of the estimated tax, or any installment thereof, shall be considered payment on account of the tax for the taxable year. Assessment in respect of the estimated tax shall be limited to the amount paid.

(5) In the case of an individual whose estimated gross income from farming for the taxable year is at least two-thirds (2/3) of the total estimated gross income from all sources for the taxable year, in lieu of the time prescribed in subsection (3) of KRS 141.300, the declaration for the taxable year may be made at any time on or before January 15 of the succeeding taxable year; and if such an individual files a return on or before March 1 of the succeeding taxable year, and pays in full the amount computed on the return as payable, such return shall have the same effect as that prescribed in subsection (5) of KRS 141.300 in the case of a return filed on or before January 31.

(6) The application of this section and KRS 141.300 to taxable years of less than twelve (12) months shall be as prescribed in administrative regulations promulgated by the ***department***[~~cabinet~~].

(7) In the application of this section and KRS 141.300 to taxpayers reporting income on a fiscal year basis, there shall be substituted for the date specified therein, the months corresponding thereto.

Section 492. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the ***department***[~~cabinet~~] shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The ***department***[~~cabinet~~] may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the ***department***[~~cabinet~~] at least thirty (30) days before the first payroll period for which it is to be used.

(7) The ***department***[~~cabinet~~] may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

(8) The ***department***[~~cabinet~~] may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

(10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.22-070 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.

(11) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated, the offset shall be one hundred percent (100%) of the assessment fee.

(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).

(13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the ***department***[~~cabinet~~]. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the ***department***[~~cabinet~~], but shall not exceed fifty thousand dollars ($50,000).

(14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 493. KRS 141.315 is amended to read as follows:

If payment of wages is made to an employee by an employer:

(1) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

(2) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer; or

(3) With respect to a period beginning in one (1) and ending in another calendar year; or

(4) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays, the wages payable by another employer to such employee, the manner of withholding and the amount to be deducted and withheld under KRS 141.310 shall be determined in accordance with regulations promulgated by the ***department***[~~cabinet~~] under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

Section 494. KRS 141.325 is amended to read as follows:

(1) An employee receiving wages shall on any day be entitled to the following withholding exemptions:

(a) One (1) exemption for himself;

(b) One (1) exemption for each dependent for whom he would be entitled to a tax credit under the provisions of KRS 141.020(3)(c);

(c) If the employee is married, the exemption to which his spouse is entitled, or would be entitled if such spouse were an employee, under subparagraph (a) of this subsection, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;

(d) Such other withholding exemptions as the ***department***[~~cabinet~~] may prescribe by regulation.

(2) Every employee shall, on or before July 1, 1954, or before the date of commencement of employment, whichever is later,

furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which in no event shall exceed the number to which he is entitled.

(3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished; provided, that certificates furnished before July 1, 1954, shall be considered as furnished on that date.

(4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.

(5) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such time as the ***department***[~~cabinet~~] may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten (10) days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

(7) Withholding exemption certificates shall be in such form and contain such information as the ***department***[~~cabinet~~] may by regulations prescribe.

Section 495. KRS 141.330 is amended to read as follows:

(1) Every employer required to deduct and withhold tax under KRS 141.310 and 141.315 shall, for the quarterly period beginning on the first day of January of each year, and for each quarterly period thereafter, on or before the last day of the month following the close of each quarterly period make a return and report to the ***department***[~~cabinet~~] the tax required to be withheld under KRS 141.310 and 141.315, unless the employer is permitted or required to report monthly or annually. Such employer shall, on or before the last day of the month following the close of each quarterly period, pay over to the ***department***[~~cabinet~~] the tax required to be withheld under KRS 141.310 and 141.315; Provided, however, That the ***department***[~~cabinet~~] may, by regulations, require employers to remit the tax withheld under KRS 141.310 and 141.315 within a reasonable time after the payroll period or other period. A return shall be filed by every employer making payment of wages even though no tax has been withheld.

(2) If the ***department***[~~cabinet~~], in any case, has reason to believe that the collection of the tax provided for in subsection (1) of this section is in jeopardy, it may require the employer to make such return and pay such tax at any time.

(3) Every employer, who fails to withhold or pay to the ***department***[~~cabinet~~] any sums required by this chapter to be withheld and paid, shall be personally and individually liable therefor to the Commonwealth; and any sum or sums withheld in accordance with the provisions of KRS 141.310 and 141.315 shall be deemed to be held in trust for the Commonwealth.

(4) The Commonwealth shall have a lien upon all the property of any employer who fails to withhold or pay over to the ***department***[~~cabinet~~] sums required to be withheld under KRS 141.310 and 141.315. If the employer withholds but fails to pay the amounts withheld to the ***department***[~~cabinet~~], the lien shall accrue as of the date the amounts withheld were required to be paid to the ***department***[~~cabinet~~]. If the employer fails to withhold, the lien shall accrue at the time the liability of the employer becomes fixed.

Section 496. KRS 141.335 is amended to read as follows:

(1) Every person required to deduct and withhold from an employee a tax under KRS 141.310 or 141.315, or who would have been required to deduct and withhold a tax under KRS 141.310 or 141.315 if the employee had claimed no more than one (1) withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

(a) the name of such person;

(b) the name of the employee and his social security account number;

(c) the total amount of wages as defined in KRS 141.010; and

(d) the total amount deducted and withheld as tax under KRS 141.310 and 141.315.

(2) The statement required to be furnished by this section in respect of any wages shall be furnished at such other times, shall contain such other information, and shall be in such form as the ***department***[~~cabinet~~] may by regulations prescribe. A duplicate of such statement if made and filed in accordance with regulations prescribed by the ***department***[~~cabinet~~] shall constitute the return required to be made in respect of such wages under KRS 141.150.

(3) The ***department***[~~cabinet~~] may promulgate regulations providing for reasonable extensions of time, not in excess of thirty (30) days, to employers required to furnish statements under this section.

Section 497. KRS 141.345 is amended to read as follows:

(1) Where there has been an overpayment of tax under KRS 141.310 or 141.315, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld under KRS 141.310 or 141.315 by the employer.

(2) Unless written application for refund or credit is received by the ***department***[~~cabinet~~] from the employer within four (4) years from the date the overpayment was made, no refund or credit shall be allowed.

Section 498. KRS 141.347 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.22-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.22-010;

(c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-070.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.22-050.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.22-050.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.22-020 to 154.22-070 and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070.

Section 499. KRS 141.370 is amended to read as follows:

The tax levied under KRS 141.020 and required to be withheld under KRS 141.310, unless determined by KRS 141.315, shall be withheld in accordance with the tables provided in regulations promulgated by the ***department***[~~cabinet~~].

Section 500. KRS 141.380 is amended to read as follows:

(1) There shall be allowed as a credit against the taxes imposed by KRS 141.020 and 141.040 an amount equal to fifteen percent (15%) of the expenditures, including installation cost, but excluding any finance charges, for qualifying energy property installed on premises in Kentucky which are owned or controlled by the taxpayer. The maximum credit which may be claimed by any taxpayer shall be fifteen hundred dollars ($1,500) during the period specified in subsection (13) of this section. A system or component or piece of equipment shall not be eligible more than once for the credit provided in this section.

(2) The credit in this section may be claimed for the taxable year in which the installation is completed. The credit may be claimed only for expenditures made during the taxable year for which the credit is claimed or during the immediately preceding taxable year, but not for expenditures made before January 1, 1983.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either, or divided equally, but the combined credit shall not exceed fifteen hundred dollars ($1,500).

(4) In the case of a partnership, of which one (1) or more of the partners are liable for the tax imposed under KRS 141.020, the amount of the credit each partner may claim shall be allocated in the same ratio as profits and losses are shared in the partnership, but the combined credit shall not exceed fifteen hundred dollars ($1,500).

(5) A builder who installs qualifying energy property in a building constructed for resale may elect himself to claim the credit allowed in this section, or may provide the purchaser with necessary documentation or certification so that the purchaser may claim the credit. The credit shall not be claimed by both the builder and the purchaser.

(6) In the case where the credit allowed in this section exceeds the tax due for the taxable year, that portion of the credit which exceeds the tax due may be carried over to the succeeding taxable years until the allowable credit has been fully exhausted, or until the credit has been claimed for three (3) successive years, whichever comes first.

(7) This tax credit shall not apply to trusts or estates.

(8) Before any tax credit can be claimed under the provisions of this section, the Natural Resources and Environmental Protection Cabinet must certify that the taxpayer's system is a viable system for using solar, wind or geothermal energy and documentation must be provided that the system has been completely installed. Any fee charged by the ***Natural Resources and Environmental Protection*** Cabinet for review and certification of a system shall not exceed ten dollars ($10).

(9) The Natural Resources and Environmental Protection Cabinet may promulgate such rules and regulations as necessary to maintain commonly accepted energy equipment standards, to effectively conform to the definition of qualifying energy property in KRS 141.375 and to administer the certification requirements in this section. The regulations, including those describing the application procedure, shall be written in nontechnical language understandable to lay citizens untrained in engineering, architecture, or other technical fields.

(10) With the exception of the certification requirements delegated to the Natural Resources and Environmental Protection Cabinet by this section, the ***Department of*** Revenue[~~ Cabinet~~] may promulgate such rules and regulations as necessary to effectively administer the requirements of KRS 141.375 and this section.

(11) All regulations necessary to implement KRS 141.375 and this section shall be filed with the Legislative Research Commission in accordance with KRS Chapter 13A by September 1, 1984.

(12) The ***Department of*** Revenue[~~ Cabinet~~] shall report as to the impact of KRS 141.375 and this section to the 1986 General Assembly and to the appropriate interim committee preceding the 1986 General Assembly. The report shall include the number and amount of the qualifying energy credits claimed, an estimate of the distribution by income group, the net revenue gain or loss to the Commonwealth attributable to the credits, and such other information as the ***Department of***

Revenue~~[Cabinet]~~ deems pertinent to an analysis of KRS 141.375 and this section.

(13) The provisions of KRS 141.375 and this section shall apply to the taxable years beginning on or after January 1, 1984, and ending on or before December 31, 1986, and no credit shall be allowed for any taxable year ending after December 31, 1986.

Section 501. KRS 141.390 is amended to read as follows:

(1) As used in this section:

(a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;

(b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials; and

(c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in a environmentally acceptable manner.

(2) A taxpayer who purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

(3) Application for a tax credit shall be made to the ***Department of*** Revenue~~[Cabinet]~~ on or before July 1 of the year following the calendar year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the ***Department of*** Revenue~~[Cabinet]~~ may require. The ***Department of*** Revenue~~[Cabinet]~~ shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.

Section 502. KRS 141.400 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010; and

(c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.28-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, trust, or limited liability company treated as a partnership for federal income tax purposes shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.28-090.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.

Section 503. KRS 141.401 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.23-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.23-010; and

(c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-079.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company that is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.

(4) Notwithstanding any other provisions of this chapter, an approved company that is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2), as follows:

(a) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made in this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(b) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.

(c) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(d) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.23-005 to 154.23-079 and the allowable income tax credit that an approved company may retain under KRS 154.23-005 to 154.23-079.

Section 504. KRS 141.403 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.26-010;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic revitalization project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic revitalization project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.26-090.

(d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 505. KRS 141.405 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" has the same meaning as set forth in KRS 154.12-2084; and

(b) "Skills training investment credit" has the same meaning as set forth in KRS 154.12-2084.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) (a) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14);

(b) The amount of the skills training investment credit that the Bluegrass State Skills Corporation has given final approval for under KRS 154.12-2088(6) shall be applied against the amount of the tax computed under paragraph (a) of this subsection; and

(c) The skills training investment credit payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under KRS 154.12-2088(6).

(4) (a) In the case of an approved company which is an S-corporation or partnership the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned among the shareholders or partners thereof at the same ratio as the shareholders' or partners' distributive shares of income are determined for the tax year during which the final authorization resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).

(b) The amount of the tax credit apportioned to each shareholder or partner that may be claimed in any tax year of the shareholder or partner shall be determined in accordance with the provisions of KRS 154.12-2086.

(5) (a) In the case of an approved company that is a trust, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.12-2086.

(6) The ***Department of*** Revenue~~[Cabinet]~~ may promulgate administrative regulations in accordance with KRS Chapter 13A adopting forms and procedures for the reporting of the credit allowed in KRS 154.12-2084 to 154.12-2089.

Section 506. KRS 141.407 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.24-010;

(b) "Economic development project" shall have the same meaning as economic development project as set forth in KRS 154.24-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.

(d) If the tax computed herein exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue~~[Cabinet]~~.

(9) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under KRS 154.24-010 to 154.24-150.

Section 507. KRS 141.414 is amended to read as follows:

(1) A qualified farming operation which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from the qualified farming operation's participation in a networking project.

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to the qualified farming operation's participation in a networking project; and

(c) Be entitled to a tax credit in the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410.

(2) Notwithstanding any other provisions of this chapter, a qualified farming operation which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to its participation in a networking project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(3) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (2) of this section shall be excluded in determining each shareholder's, partner's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, or trust.

(4) If the networking entity is a separate facility, net income attributable to the project for the purposes of subsections (1), (2), and (3) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the project and overhead expenses apportioned to the project.

(5) If the networking project is an expansion to a previously existing farming operation, net income attributable to the entire operation shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the farming operation's participation in the networking project and overhead expenses apportioned to the networking project, and the net income attributable to the networking project for the purposes of subsections (1), (2), and (3) of this section shall be determined by apportioning the separate accounting net income of the entire networking project to the networking project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(6) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved farming operation are such that it is not practical to use the separate accounting method to determine the net income from the networking project, the approved farming operation shall determine net income from its participation in the networking project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(7) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations pursuant to KRS Chapter 13A and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] necessary to effectuate KRS 141.0101 and KRS 141.410 to 141.414 and the allowable income tax credit which an approved farming operation may retain under the provisions of KRS 141.412 and this section.

Section 508. KRS 141.415 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" has the same meaning as set forth in KRS 154.34-010;

(b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.34-080.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from a reinvestment project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to a reinvestment project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.34-080.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to a reinvestment project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.34-080.

(d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the S corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries, shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiary's distributive share of net income or credit of an S corporation, partnership, registered limited liability partnership, limited liability company or trust.

(6) If the reinvestment project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the reinvestment project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the reinvestment project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the reinvestment project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the reinvestment project is located, the approved company shall determine net income from the reinvestment project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable income tax credit which an approved company may retain under KRS 154.34-010 to 154.34-100.

Section 509. KRS 141.416 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.34-010 to KRS 154.34-100 and subject to license tax under KRS 136.070;

(b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.34-080.

(2) The tax credit shall equal the computed license tax attributable to the location of a reinvestment project; however, the credit shall not exceed the limits set forth in KRS 154.34-080.

(3) The license tax attributable to a reinvestment project shall be determined by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(4) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable tax

credit which an approved company may retain under KRS 154.34-010 to 154.34-100.

Section 510. KRS 141.442 is amended to read as follows:

(1) Effective for the tax year beginning January 1, 1990, and for each tax year thereafter, any individual who is entitled to a tax refund sufficient to make a designation under this section may designate an amount, not to exceed the amount of the refund, to be paid to the Bluegrass State Games and United States Olympic Committee fund. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to the fund. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the state individual income tax return.

(3) The ***commissioner of the Department of Revenue***[~~secretary of revenue~~] shall certify by December 1, 1990, and by December 1 of each year thereafter, all such designated amounts to be paid by the State Treasurer. The Treasurer shall remit by January 1, 1991, and by January 1 of each year thereafter, on an equal share basis, all moneys paid into the fund during the preceding tax year, to the appropriate officials designated by the governing bodies of the Bluegrass State Games and the United States Olympic Committee, respectively.

(4) If the governing body of either the Bluegrass State Games or the United States Olympic Committee ceases to exist and function in this state, then any funds to be made available to such governing body, pursuant to subsection (3) of this section, shall be paid over to the governing body representing the remaining organization.

Section 511. KRS 141.460 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall print on the face of the Kentucky individual income tax form a space for a taxpayer to designate that a contribution be made to the Kentucky Nature and Wildlife Fund from that taxpayer's income tax refund. The space for designating the contribution shall be in substantially the following form:

KENTUCKY NATURE AND WILDLIFE FUND. I wish to contribute

$2----- $5----- $10----- $-----

of my TAX REFUND TO THE KENTUCKY NATURE AND WILDLIFE FUND.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall print in the instructions accompanying the individual income tax form a description of the purposes for which the Kentucky Nature and Wildlife Fund was established and the use of moneys from the income tax check-off.

Section 512. KRS 141.465 is amended to read as follows:

The ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] shall transfer fifty percent (50%) of the funds designated in KRS 141.460 to the nongame fish and wildlife fund created by KRS 150.165 and fifty percent (50%) to the Kentucky nature preserves fund created by KRS 146.520 and shall reduce the amount of the income tax refund by the amount designated. Moneys in each fund shall be placed in an interest-bearing account.

Section 513. KRS 141.475 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such rules and regulations as may be necessary to effectively administer the provisions of KRS 141.455 to 141.470.

Section 514. KRS 141.985 is amended to read as follows:

If the tax imposed by this chapter, whether assessed by the ***department***[~~cabinet~~], or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the ***department***[~~cabinet~~]. Interest shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Section 515. KRS 141.990 is amended to read as follows:

(1) Any individual, fiduciary, corporation, employer, or other person who violates any of the provisions of this chapter shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(2) Any individual required by KRS 141.300 to file a declaration of estimated tax and required by KRS 141.305 to pay the declaration of estimated tax shall be subject to a penalty as provided in KRS 131.180 for any declaration underpayment or any late payment. Underpayment, for purposes of this subsection, is determined by subtracting declaration credits allowed by KRS 141.070, declaration installment payments actually made, and credit for tax withheld as allowed by KRS 141.350 from seventy percent (70%) of the total income tax liability computed by the taxpayer as shown on the return filed for the tax year. This subsection shall not apply to the tax year in which the death of the taxpayer occurs, nor in the case of a farmer exercising an election under subsection (5) of KRS 141.305, nor in the case of any person having a tax liability of two hundred dollars ($200) or less.

(3) Any corporation required by KRS 141.042 to file a declaration of estimated tax and required to pay the declaration of estimated tax by the installment method prescribed by subsection (1) of KRS 141.044 shall be subject to a penalty as provided in KRS 131.180 for any declaration underpayment or any installment not paid on time. Declaration

underpayment, for purposes of this subsection, is determined by subtracting five thousand dollars ($5,000) and declaration payments actually made from seventy percent (70%) of the total income tax liability computed by the taxpayer on the return filed for the tax year.

(4) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the state from the taxpayer or other person liable therefor.

(5) In addition to the penalties herein prescribed, any taxpayer or employer, who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.

(6) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under this chapter of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, shall be guilty of a Class D felony.

(7) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the ***department***[~~cabinet~~] and required to be filed with the ***department***[~~cabinet~~] by the provisions of this chapter, or by the rules and regulations of the ***department***[~~cabinet~~] or by written request for information to the taxpayer by the ***department***[~~cabinet~~].

Section 516. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

- (a) A tax of three dollars and fifty cents ($3.50) on each marriage license;
- (b) A tax of three dollars ($3) on each power of attorney to convey real or personal property;
- (c) A tax of three dollars ($3) on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate of title under KRS 186A.190;
- (d) A tax of three dollars ($3) on each conveyance of real property; and
- (e) A tax of three dollars ($3) on each lien or conveyance of coal, oil, gas, or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the issuance of a marriage license or the original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section shall be reported and paid to the ***Department of*** Revenue[~~ Cabinet~~] by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the ***department***[~~cabinet~~].

(4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 517. KRS 142.015 is amended to read as follows:

The county clerk, in each county, shall be allowed five percent (5%) commission on the amounts collected for state taxes on legal processes and instruments provided for under KRS 142.010, said five percent (5%) commission to be retained by the county clerk on said sums reported to the ***Department of*** Revenue[~~ Cabinet~~] and paid by the county clerk into the State Treasury.

Section 518. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

- (a) "Deed" means any document, instrument, or writing other than a will and other than a lease or easement, regardless of where made, executed, or delivered, by which any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned.
- (b) "Value" means:
  1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and
  2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents ($0.50) for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect the amount as prerequisite to

acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The ***Department of*** Revenue[~~ Cabinet~~] may prescribe regulations necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to the deed shall, upon conviction, be fined $50 for each offense.

(7) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To, in the event of a deed of gift or deed with nominal consideration, or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or between former spouses as part of a divorce proceeding;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to:

1. Merger or consolidation between and among corporations, partnerships, including registered limited liability partnerships, limited partnerships, or limited liability companies; or

2. The conversion of a general partnership, including a registered limited liability partnership, or a limited partnership into a limited liability company;

(i) Between a subsidiary corporation and its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of either corporation's stock;

(j) Under a foreclosure proceeding;

(k) Between a person and a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the transferor of the property in the entity to which the property was transferred, if the transfer was for nominal consideration;

(l) Between parent and child or grandparent and grandchild, with only nominal consideration therefor;

(m) By a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company to a person as owner or shareholder of the entity, upon dissolution of the entity, in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the person to whom the property was transferred, if the transfer was for nominal consideration;

(n) Between a trustee and a successor trustee; and

(o) Between a limited liability company and any of its members.

(8) The tax imposed by subsection (2) of this section shall not apply to transfers to a trustee, to be held in trust, or from a trustee to a beneficiary of the trust if:

(a) The grantor is the sole beneficiary of the trust;

(b) The grantor is a beneficiary of the trust and a direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section; or

(c) A direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section.

(9) As used in this section, "trust" shall have the same definition as contained in KRS 386.800.

Section 519. KRS 142.301 is amended to read as follows:

As used in KRS 142.301 to 142.359:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~];

(2) "Charitable provider" means any provider which does not charge its patients for health-care items or services, and which does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state

government. The collaboration with public hospitals, agencies, or other providers in the delivery of patient care; affiliation with public institutions to provide health-care education; or the pursuit of research in cooperation with public institutions or agencies shall not be considered as the receipt of government support by a charitable provider;

(3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration or use by a patient or other individual entitled to receive the prescription drug;

(4) "Entity" means any firm, partnership, joint venture, association, corporation, company, joint stock association, trust, business trust, syndicate, cooperative, or other group or combination acting as a unit;

(5) "Gross revenues" means the total amount received in money or otherwise by a provider for the provision of health-care items or services in Kentucky, less the following:

(a) Amounts received by any provider as an employee or independent contractor from another provider for the provision of health-care items or services if:

1. The employing or contracting provider receives revenue attributable to health-care items or services provided by the employee or independent contractor receiving payment; and

2. The employing or contracting provider is subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 on the receipt of that revenue;

(b) Amounts received as a grant or donation by any provider from federal, state, or local government or from an organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code for:

1. Research; or

2. Administrative or operating costs associated with the implementation and operation of an experimental program;

(c) Salaries or wages received by an individual provider as an employee of a charitable provider, the federal government, or any state or local governmental entity;

(d) Salaries or wages received by an individual provider as an employee of a public university for the provision of services at a student health facility; and

(e) Amounts received by an HMO on a fixed, prepayment basis as premium payments.

(6) "Health-care items or services" means:

(a) Inpatient hospital services;

(b) Outpatient hospital services;

(c) Nursing-facility services;

(d) Services of intermediate-care facilities for the mentally retarded;

(e) Physicians' services provided prior to July 1, 1999;

(f) Licensed home-health-care-agency services;

(g) Outpatient prescription drugs; and

(h) HMO services;

(7) "Health-maintenance organization" or "HMO" means an organization established and operated pursuant to the provisions of Subtitle 38 of KRS Chapter 304;

(8) "Hospital" means an acute-care, rehabilitation, or psychiatric hospital licensed under KRS Chapter 216B;

(9) "Hospital services" means all inpatient and outpatient services provided by a hospital. "Hospital services" does not include services provided by a noncontracted, university-operated hospital, or any freestanding psychiatric hospital, if necessary waivers are obtained by the Cabinet for Human Resources from the Health Care Financing Administration, or hospitals operated by the federal government;

(10) "Health services secretary" means the secretary of the Cabinet for Health Services or that person's authorized representative;

(11) "Inpatient hospital services," "outpatient hospital services," "intermediate-care-facility services for the mentally retarded," "physician services," "licensed home-health-care-agency services," and "outpatient prescription drugs" have the same meaning as set forth in regulations promulgated by the Secretary of the Department of Health and Human Services and codified at 42 C.F.R. pt. 440, as in effect on December 31, 1993;

(12) "Medicaid" means the state program of medical assistance as administered by the Cabinet for Health Services in compliance with 42 U.S.C. sec. 1396;

(13) "Nursing-facility services" means services provided by a licensed skilled-care facility, nursing facility, nursing home, or intermediate-care facility, excluding intermediate-care facilities for the mentally retarded;

(14) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other

group or combination acting as a unit and the legal successor thereof;

(15) "Provider" means any person receiving gross revenues for the provision of health-care items or services in Kentucky, excluding any facility operated by the federal government; and

(16) "***Commissioner***~~[Secretary]~~" means the ***commissioner***~~[secretary]~~ of the ***Department of*** Revenue~~[Cabinet]~~ or that person's authorized representative.

Section 520. KRS 142.317 is amended to read as follows:

Charitable providers as defined in KRS 142.301 shall be exempt from the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, as well as the provisions of KRS 142.321, 142.333, 142.341, and 142.343 upon providing proper certification to the ***department***~~[cabinet]~~.

Section 521. KRS 142.321 is amended to read as follows:

(1) Every provider subject to the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 that is not registered with the ***department***~~[cabinet]~~ pursuant to the provisions of KRS 142.221 shall, on July 15, 1994, file an application for a certificate of registration with the ***department***~~[cabinet]~~. A certificate of registration filed in accordance with the provisions of KRS 142.221 shall remain valid for purposes of KRS 142.301 to 142.359. Every provider seeking to provide health care items or services in Kentucky for the first time after July 15, 1994, shall, prior to providing these items or services, file an application for a certificate of registration with the ***department***~~[cabinet]~~. The application shall be in the form prescribed by the ***department***~~[cabinet]~~. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) Every state board responsible for licensing or governing any provider subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall, upon request by the ***department***~~[cabinet]~~, provide any information available to the licensing board necessary for the administration of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311. The information shall be in the form required by the ***department***~~[cabinet]~~ and shall be used by the ***department***~~[cabinet]~~ for the sole purpose of administering the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311.

(3) Every state board responsible for licensing or governing any provider subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall, upon request by the ***department***~~[cabinet]~~, include the application for certificate of registration required by subsection (1) of this section with any new license issued. Application forms shall be provided by the ***department***~~[cabinet]~~ to the licensing board.

Section 522. KRS 142.323 is amended to read as follows:

The taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 are due and payable to the ***department***~~[cabinet]~~ monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

Section 523. KRS 142.327 is amended to read as follows:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the ***department***~~[cabinet]~~ in the form prescribed by the ***department***~~[cabinet]~~, together with payment of any tax due.

(2) A return shall be filed by every provider. The return shall be signed by the person required to file the return or a duly-authorized agent.

(3) The return shall show the gross revenues of the provider during the preceding reporting period. The return shall also show the amount of taxes for the period covered by the return and other information as the ***department***~~[cabinet]~~ deems necessary for the proper administration of KRS 142.301 to 142.359.

(4) The person required to file the return shall deliver the return, together with a remittance of the amount of the tax due, to the ***department***~~[cabinet]~~.

(5) For the purpose of facilitating the administration, payment, or collection of the taxes levied by KRS 142.303, 142.307, 142.309, and 142.311, the ***department***~~[cabinet]~~ may permit or require returns to be filed or tax payments to be made other than as specifically required by the provisions of this section, except the ***department***~~[cabinet]~~ shall not require or permit returns or payments to be filed or remitted more frequently than monthly.

Section 524. KRS 142.331 is amended to read as follows:

(1) The ***department***~~[cabinet]~~ shall, upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the ***department***~~[cabinet]~~, extend the time for filing the return or paying the tax for a period not to exceed thirty (30) days.

(2) Any person for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

Section 525. KRS 142.333 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***~~[cabinet]~~ shall examine it. If the amount of tax computed by the ***department***~~[cabinet]~~ is greater than the amount returned by the taxpayer, the excess shall be assessed by the ***department***~~[cabinet]~~ within four (4) years from the later of the date the return was filed or due, except that in the case of a failure to file a return or a fraudulent return, the excess may be assessed at any time. A notice of assessment shall be

mailed to the provider. The provider and the ***department***[~~cabinet~~] may agree to extend this time period.

(2) Any provider aggrieved by an action of the ***department***[~~cabinet~~] may request a review and shall have the rights of appeal as set forth in KRS Chapter 131.

(3) Notwithstanding the four (4) year time limitation set forth in subsection (1), in the case of a return where the provider understates gross revenues by twenty-five percent (25%) or more, the excess shall be assessed by the ***department***[~~cabinet~~] within six (6) years from the later of the date the return is due or filed.

Section 526. KRS 142.337 is amended to read as follows:

In making a determination of tax liability, the ***department***[~~cabinet~~] may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

Section 527. KRS 142.341 is amended to read as follows:

(1) Every provider shall keep records, receipts, invoices, and other pertinent papers in the form as the ***department***[~~cabinet~~] may require.

(2) Every provider who files the returns required under KRS 142.323 shall keep records for not less than six (6) years from the making of records unless the ***department***[~~cabinet~~] in writing authorizes their destruction at an earlier date.

Section 528. KRS 142.347 is amended to read as follows:

(1) Except when the health services secretary has been granted specific authority in KRS 142.301 to 142.359, the ***department***[~~cabinet~~] shall administer the provisions of KRS 142.301 to 142.359, and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, conferred generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

(2) The Cabinet for Health Services shall be responsible for compliance with all federal reporting requirements regarding the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311.

(3) The Cabinet for Health Services shall fully cooperate with the ***department***[~~cabinet~~] and shall provide the ***department***[~~cabinet~~] with any information requested to carry out the provisions of KRS 142.301 to 142.359.

Section 529. KRS 142.351 is amended to read as follows:

(1) A report of revenue receipts from the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall be provided on a quarterly basis by the ***department***[~~cabinet~~] to the health services secretary on or before the tenth day of the second month following the close of each fiscal quarter.

(2) It is the responsibility of each provider, subject to tax under KRS 142.303, 142.307, 142.309, and 142.311 to register with the ***department***[~~cabinet~~], and comply with the tax and reporting provisions of KRS 142.301 to 142.359.

Section 530. KRS 142.353 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with the provisions of KRS 142.301 to 142.359, the ***department***[~~cabinet~~] may require any person subject to the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 to place security with it. The amount of the security shall be fixed by the ***department***[~~cabinet~~] but shall not be greater than three (3) times the estimated average liability of the provider or all providers in the same class as the provider, whichever is greater. This limitation shall apply regardless of the type of security placed with the ***department***[~~cabinet~~].

(2) The amount of the security may be increased or decreased by the ***department***[~~cabinet~~], subject to the limitations provided in subsection (1) of this section.

(3) (a) If necessary, the ***department***[~~cabinet~~] may sell the security at public auction in order to recover any tax, penalty, or interest due. However, security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may be sold by the ***department***[~~cabinet~~] at a private sale at a price not lower than the prevailing market price.

(b) 1. The ***department***[~~cabinet~~] shall provide notice by certified mail, sent to the last known address as reflected in the records of the ***department***[~~cabinet~~], or by delivery, to the person who placed the security with the ***department***[~~cabinet~~] of the date, time, and place of the sale.

2. Delivery means mailing the notice to the person it is addressed to, leaving the notice at his place of business with the person in charge of the place of business, or, if there is no one in charge, leaving the notice at a conspicuous place at the place of business. If the place of business is closed, or the person to be served has no place of business, leaving it at his home, with a person of suitable age and discretion residing in the home. Notice by certified mail must be postmarked no later than ten (10) days prior to the sale. Notice by delivery must be given no later than ten (10) days prior to the sale.

(c) Any amount in excess of the amount due the ***department***[~~cabinet~~] after the sale shall be returned to the person placing the security.

(4) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a provider's business until the security is obtained. The action may be brought in the Franklin

Circuit Court or in the Circuit Court having jurisdiction over the provider.

Section 531. KRS 143.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Department***[~~Cabinet~~]" means "***Department of*** Revenue[~~ Cabinet~~]."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth.

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into by which persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest shall be the taxpayer.

(6) "Gross value" is synonymous with gross income from property as defined in Section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (11) of this section, incurred in transporting coal shall not be considered as gross income from the property. Gross value shall be reported as follows:

(a) For coal severed and/or processed and sold during a reporting period, gross value shall be the amount received or receivable by the taxpayer.

(b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall be the amount received or receivable from the first noncontrolled sale by the related parties. If coal is sold to a related party for consumption, gross value shall not be less than the fair market value for coal of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.

(e) If severed coal is purchased for the purpose of processing and resale, the gross value shall be the amount received or receivable during the reporting period reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(f) If severed coal is purchased for the purpose of processing and consumption, the gross value shall be the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(g) In all instances, the gross value shall not be reduced by any taxes, including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense.

(7) "Reporting period" means the period for which each taxpayer shall compute his tax liability and remit the tax due to the ***department***[~~cabinet~~]. The reporting period shall be monthly. However, the ***department***[~~cabinet~~] may, under certain conditions, authorize a quarterly reporting period.

(8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading or unloading for any purpose. "Processing" shall not include:

(a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity; or

(b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized, or otherwise treated in Kentucky.

(9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control shall exist if a contract or lease, either written or oral, is entered into whereby one (1) party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive royalty interest. In the case of related parties, the ***department***[~~cabinet~~] may apportion or allocate the receipts between or among the persons, organizations, or businesses if it determines that the apportionment or allocation is necessary in order to more clearly reflect gross value.

(10) "Economic interest" for the purposes of this chapter shall be synonymous with the economic interest ownership required by Internal Revenue Code Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(11) "Transportation expense" shall mean:

  (a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

  (b) The expense incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

  (c) Transportation expenses shall not include:

    1. The cost of acquisition, improvements, and maintenance of real property;

    2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities;

    3. The cost of acquisition and operating expenses of equipment used to load or unload the coal at the mine, processing facility, and mining and nonmining loading facility.

(12) "Registered taxpayer" as used in subsection (6)(e) and (f) of this section shall mean a "taxpayer" as defined in subsection (5) of this section who holds a valid coal tax certificate of registration required under KRS 143.030(1) and the certificate of registration was valid for the period in which his coal was sold.

(13) "Above-drainage" means coal in a coal bed that outcrops at the surface within a mine permit area and that is accessed at the outcrop location.

(14) "Below-drainage" means coal in a coal bed that does not outcrop at the surface within a mine permit area and that is accessed by mine slopes or other openings that penetrate the coal a minimum of thirty (30) feet below the surface drainage level.

(15) "Mining ratio" means the amount of bank cubic yards of surface material that must be removed before a ton of coal can be mined.

Section 532. KRS 143.040 is amended to read as follows:

The ***Department of*** Revenue~~[Cabinet]~~ shall administer the provisions of this chapter and shall, subject to the provisions of KRS 143.090, have all the powers, rights, duties, and authority with respect to promulgation of rules and regulations, assessment, collection, refunding and administration of the taxes levied by this chapter conferred generally on it by the Kentucky Revised Statutes including Chapters 131, 134, and 135 of such statutes.

Section 533. KRS 143.090 is amended to read as follows:

(1) The Transportation Cabinet shall certify to the ***commissioner***~~[secretary]~~ of the ***Department of*** Revenue~~[Cabinet]~~ by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.

(2) The Kentucky Coal Council shall certify to the ***commissioner***~~[secretary]~~ of the ***Department of*** Revenue~~[Cabinet]~~ by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the Kentucky Coal Council. The amount so certified shall in no case exceed three million dollars ($3,000,000) in any one (1) year.

(3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the ***commissioner***~~[secretary]~~ of the ***Department of*** Revenue~~[Cabinet]~~ shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Kentucky Coal Council, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:

  (a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and

  (b) An amount equal to the amount certified by the Kentucky Coal Council shall be transferred by appropriate interfund transfer procedures to the Kentucky Coal Council.

(4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Kentucky Coal Council shall be deposited by the ***Department of*** Revenue~~[Cabinet]~~ to the credit of the general fund.

(5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the ***commissioner***~~[secretary]~~ of revenue shall prorate the proceeds to the transportation fund and the Kentucky Coal Council based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 534. KRS 143.025 is amended to read as follows:

(1) Taxpayers severing coal in Kentucky and partially or wholly processing the coal outside of Kentucky thereafter and taxpayers severing coal outside of Kentucky and partially or wholly processing the coal in Kentucky thereafter shall determine and report the gross value of the coal by application of the following formula:

  (a) Determine the direct cost of severing or processing the coal in Kentucky as defined in subsections (d) and (e) of this section.

  (b) Determine the direct cost of severing or processing the coal outside of Kentucky as defined in subsections (d) and (e) of this section.

(c) Exclude from subsections (a) and (b) of this section transportation expense as defined in KRS 143.010(11) and overhead cost as defined in subsection (f) of this section.

(d) Include in the direct cost of severing coal: black lung excise tax; contract mining, less transportation expense contained therein; cost depletion; depreciation; development; equipment rental; explosives; fuel; labor and associated expenses; maintenance; reclamation; royalties when based on tons severed; and wheelage.

(e) Include in the direct cost of processing coal: depreciation; equipment rental; fee processing; fuel; labor and associated expense; maintenance; and refuse disposal.

(f) Include in the overhead costs: commissions; freight yard and siding expense; general expense; general insurance and supervision; general office expense; idle time expense; inventory adjustments; mine closing expense; officers' salaries; percentage depletion; quality analysis; scale and weighman's expense; transportation expense and taxes, including sales, coal severance, property, franchises, and state income taxes.

(2) For purposes of computing the formula under this section, any expense which is not directly attributable to either the severing or processing of the coal shall be classified as an overhead cost.

(3) Direct cost determined in subsection (a) of this section divided by the total of direct cost determined in subsection (a) of this section and the direct cost determined in subsection (b) of this section and the result multiplied by the gross value of the coal shall equal the proportion of gross value which is subject to the tax levied under KRS 143.020.

(4) Any taxpayer determining taxable gross value as provided in this section shall submit supporting computations and classifications of cost with each coal tax return, unless the ***department***[~~cabinet~~] authorizes the taxpayer to submit the supporting information on a basis other than monthly.

Section 535. KRS 143.030 is amended to read as follows:

(1) Every individual, partnership, joint venture, association, limited liability company, limited liability partnership, corporation, or other business entity engaged in severing or processing coal shall, prior to July 1, 1978, or prior to severing or processing coal in this Commonwealth, file an application for a certificate of registration in such form as the ***department***[~~cabinet~~] may prescribe. Every application shall be signed by:

(a) The owner if a natural person;

(b) A member or partner if the entity is an association, limited liability company, limited liability partnership, or partnership;

(c) An executive officer, if the entity is a corporation, or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his or her authority; or

(d) A licensed certified public accountant, or an attorney licensed to practice law in the Commonwealth of Kentucky, acting on behalf of the owner, association, partnership, limited liability company, limited liability partnership, corporation, or other business entity.

(2) On or before the twentieth day of the month following the reporting period in which any coal is severed or processed, the taxpayer severing or processing such coal shall file with the ***department***[~~cabinet~~] a tax return in such form as the ***department***[~~cabinet~~] may require and remit the amount of the tax due. A tax return is required for each reporting period even though there may be no tax liability.

(3) Whenever any taxpayer fails to comply with any provisions of this chapter, or any rule or regulation of the ***department***[~~cabinet~~] relating thereto, the ***department***[~~cabinet~~] may order the suspension or revocation of the certificate of registration held by such taxpayer.

(4) Any taxpayer, including any officer of a corporation, who conducts a coal severing or processing operation in this state without obtaining a certificate of registration or after a certificate of registration has been suspended or revoked, shall be guilty of a misdemeanor and upon conviction therefor, shall be fined an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months or both such fine and imprisonment.

Section 536. KRS 143.035 is amended to read as follows:

Notwithstanding any other provisions of this chapter to the contrary, where the ***department***[~~cabinet~~] finds that it would facilitate and expedite the collection of the tax imposed by this chapter, the ***department***[~~cabinet~~] may authorize the taxpayer processing the coal to report and pay the tax which would be due from the taxpayer severing the coal. Authorization from the ***department***[~~cabinet~~] shall be in the form of an agreement executed by the taxpayer processing the coal, the taxpayer severing the coal and the ***department***[~~cabinet~~]. The agreement shall be in such form as the ***department***[~~cabinet~~] may prescribe. The agreement must be signed by the owners if the taxpayers are natural persons; in the case of a partnership or association by a partner or member; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application. The director of the sales and severance tax division shall sign for the ***department***[~~cabinet~~]. The agreement may be terminated by any party to the agreement upon giving thirty (30) days written notice to the other parties to the agreement; however, the ***department***[~~cabinet~~] may terminate the agreement immediately upon written notice to the other parties when either the taxpayer processing the coal or the taxpayer severing the coal fails to comply with the terms of the agreement.

Section 537. KRS 143.037 is amended to read as follows:

(1) For the purpose of administering KRS 143.010(6)(e) and (f), the ***department***[~~cabinet~~] shall provide to all registered taxpayers, who sell severed or processed coal that will subsequently be claimed as a deduction for purchased coal, certificates or other similar forms designed for the purpose of permitting the processor of the coal to verify his deduction for purchased coal. If coal which has been severed outside this state is purchased by a processor, he shall acquire a statement in such form as the ***department***[~~cabinet~~] may prescribe from the person severing the coal outside this state.

(2) A deduction for purchased coal shall not be allowed for purchases of coal originating from persons severing coal in this state who are not registered to report and pay the tax due under this chapter or for purchases of coal which cannot be traced to a person who severed the coal outside this state.

Section 538. KRS 143.050 is amended to read as follows:

(1) Any taxpayer charged with the filing of reports and payment of the tax imposed by this chapter may be required to post a cash or corporate surety bond in an amount to be determined by the ***department***[~~cabinet~~].

(2) The Commonwealth may bring an action for a restraining order, temporary or permanent injunction to restrain or enjoin the operation of a taxpayer's business until the bond is posted. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

Section 539. KRS 143.060 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the taxpayer, the excess shall be assessed within four (4) years from the date the return was filed, except as provided in subsection (2) of this section, and except that in the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the ***department***[~~cabinet~~].

(2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) Any final ruling, order or determination of the ***department***[~~cabinet~~] with regard to the administration of this chapter may be reviewed only in the manner provided in KRS 131.110 and 131.310 to 131.370.

(4) Notwithstanding the four (4) year time limitation of subsection (1), in the case of a return where the taxpayer understates the gross value by twenty-five percent (25%) or more, the excess shall be assessed by the ***department***[~~cabinet~~] within six (6) years from the date the return was filed.

Section 540. KRS 143.090 is amended to read as follows:

(1) The Transportation Cabinet shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.

(2) The Kentucky Coal Council shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the Kentucky Coal Council. The amount so certified shall in no case exceed three million dollars ($3,000,000) in any one (1) year.

(3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Kentucky Coal Council, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:

(a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and

(b) An amount equal to the amount certified by the Kentucky Coal Council shall be transferred by appropriate interfund transfer procedures to the Kentucky Coal Council.

(4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Kentucky Coal Council shall be deposited by the ***Department of*** Revenue[~~ Cabinet~~] to the credit of the general fund.

(5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the ***commissioner***[~~secretary~~] of revenue shall prorate the proceeds to the transportation fund and the Kentucky Coal Council based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 541. KRS 143A.010 is amended to read as follows:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(2) "Natural resource" means all forms of minerals including but not limited to rock, stone, limestone, shale, gravel, sand, clay, natural gas, and natural gas liquids which are contained in or on the soils or waters of this state. For purposes of this chapter, "natural resource" does not include coal and oil which are taxed under KRS 143.020 and 137.120.

(3) "Severing" or "severed" means the physical removal of the natural resource from the earth or waters of this state by any

means; however, "severing" or "severed" shall not include the removal of natural gas from underground storage facilities into which the natural gas has been mechanically injected following its initial removal from the earth.

(4) "Taxpayer" means and includes any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind engaged in the business of severing and/or processing natural resources in this state for sale or use. In instances where contracts, either oral or written, are entered into whereby persons, organizations or businesses are engaged in the business of severing and/or processing a natural resource but do not obtain title to or do not have an economic interest therein, the party who owns the natural resource or has an economic interest is the taxpayer.

(5) "Gross value" is synonymous with gross income from property as defined in section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (9) of this section incurred in transporting a natural resource shall not be considered as gross income from the property. Gross value is to be reported as follows:

(a) For natural resources severed and/or processed and sold during a reporting period, gross value is the amount received or receivable by the taxpayer.

(b) For natural resources severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the natural resource is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of the natural resource shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall not be less than the fair market value for natural resources of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for natural resources of similar grade and quality.

(e) If severed natural resources are purchased for the purpose of processing and resale, the gross value is the amount received or receivable during the reporting period reduced by the amount paid or payable to the taxpayer actually severing the natural resource.

(f) If severed natural resources are purchased for the purpose of processing and consumption, the gross value is the fair market value of processed natural resources of similar grade and quality reduced by the amount paid or payable to the taxpayer actually severing the natural resource.

(g) In all instances, the gross value shall not be reduced by any taxes including the tax levied in KRS 143A.020, royalties, sales commissions, or any other expense.

(6) "Processing" includes but is not limited to breaking, crushing, cleaning, drying, sizing, or loading or unloading for any purpose. "Processing" shall not include the act of unloading or loading for shipment natural resources that have not been severed, cleaned, broken, crushed, dried, sized or otherwise treated in Kentucky.

(7) "Related parties" means two (2) or more persons, organizations or businesses owned or controlled directly or indirectly by the same interests.

(8) "Economic interest" for the purpose of this chapter is synonymous with the economic interest ownership required by Internal Revenue Code, Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(9) (a) "Transportation expense" means:

1. The amount paid by a taxpayer to a third party for transporting natural resources; and

2. The expenses incurred by a taxpayer using his own facilities in transporting natural resources from the point of extraction to a processing plant, tipple, or loading dock.

(b) Transportation expenses shall not include:

1. The cost of acquisition, improvements, and maintenance of real property;

2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities; or

3. The cost of acquisition and operating expenses of equipment used to load or unload the natural resource at the point of extraction, processing facility, or mining and nonmining loading facility.

Section 542. KRS 143A.040 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall administer the provisions of this chapter and shall have all the powers, rights, duties and authority with respect to rules and regulations, collection, refunding and administration of the taxes levied by KRS 143A.020 conferred generally on it by the Kentucky Revised Statutes, including KRS Chapters 131, 134 and 135.

Section 543. KRS 143A.050 is amended to read as follows:

(1) Every taxpayer as defined in KRS 143A.010(4) shall, before June 1, 1980, or before engaging in the severing or processing

of a natural resource subjected to tax under KRS 143A.020, obtain a certificate of registration by filing with the ***department***[~~cabinet~~] an application in such form and containing such information as the ***department***[~~cabinet~~] may prescribe. Every application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) Whenever any taxpayer fails to comply with any provisions of this section through KRS 143A.130 or any rule or regulation of the ***department***[~~cabinet~~] relating thereto, the ***department***[~~cabinet~~] may suspend or revoke the certificate of registration held by such taxpayer.

(3) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin operation of a taxpayer's business being operated without a certificate of registration. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

Section 544. KRS 143A.060 is amended to read as follows:

Notwithstanding any other provisions of this chapter to the contrary:

(1) In the case of natural resources other than natural gas, where the ***department***[~~cabinet~~] finds that it would facilitate and expedite the collection of the tax imposed under KRS 143A.020, the ***department***[~~cabinet~~] may authorize the taxpayer processing the natural resource to report and pay the tax which would be due from the taxpayer severing the natural resource. Authorization from the ***department***[~~cabinet~~] shall be in the form of an agreement executed by the taxpayer processing the natural resource, the taxpayer severing the natural resource, and the ***department***[~~cabinet~~]. The agreement shall be in such form as the ***department***[~~cabinet~~] may prescribe. The agreement must be signed by the owners if the taxpayers are natural persons; in the case of a partnership or association by a partner or member; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application. The director of legal services shall sign for the ***department***[~~cabinet~~]. The agreement may be terminated by any party to the agreement upon giving thirty (30) days' written notice to the other parties to the agreement; however, the ***department***[~~cabinet~~] may terminate the agreement immediately upon written notice to the other parties when either the taxpayer processing the natural resource or the taxpayer severing the natural resource fails to comply with the terms of the agreement; and

(2) (a) In the case of natural gas, except for those cases:

1. Where the person severing or severing and processing the natural gas will sell the gas to the ultimate consumer; or

2. Where the ***department***[~~cabinet~~] determines that the collection of the taxes due under KRS 143A.020 would be accomplished in a more efficient and effective manner through the severor, or severor and processor, remitting the taxes,

the first person to purchase the natural gas after it has been severed, or in the event that the natural gas has been severed and processed before the first sale, the first person to purchase the natural gas after it has been severed and processed, shall be liable for the collection of the tax imposed under KRS 143A.020. He shall collect the taxes imposed from the person severing, or severing and processing, the natural gas, and he shall remit the taxes to the ***department***[~~cabinet~~]. In those cases where the person severing or severing and processing the natural gas sells the gas to the ultimate consumer, the person so severing or severing and processing the natural gas shall be liable for the tax imposed under KRS 143A.020. In those cases where the ***department***[~~cabinet~~] determines that the collection of the taxes due under KRS 143A.020 from the severance or severance and processing of natural gas would be accomplished in a more efficient and effective manner through the severor, or severor and processor, remitting the taxes, the ***department***[~~cabinet~~] shall set out its determination in writing, stating its reasons for so finding, and so advise the severor or severor and processor at least fifteen (15) days in advance of the first reporting period for which such action would be effective.

(b) On or before the last day of the month following each calendar month, each person first purchasing natural gas as described in paragraph (a) of this subsection, shall report purchases of natural gas during the month, showing the quantities of gas purchased, the price paid, the date of purchase, and any other information deemed necessary by the ***department***[~~cabinet~~] for the administration of the tax levied by KRS 143A.020, and shall pay the amount of tax due, on forms prescribed by the ***department***[~~cabinet~~].

(c) On or before the last day of the month following each calendar month, each person severing, or severing and processing natural gas, shall report the sales of natural gas, showing the name and address of the person to whom sold, the quantity of gas sold, the date of sale, and the sales price on forms prescribed by the ***department***[~~cabinet~~].

Section 545. KRS 143A.070 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with KRS 143A.050 to 143A.130, the ***department***[~~cabinet~~] may require any taxpayer to post a cash or corporate surety bond.

(2) The amount of the bond shall be fixed by the ***department***[~~cabinet~~] but, except as provided in subsection (3) of this section, shall not be greater than three (3) times the average quarterly liability of taxpayers filing returns for quarterly periods, five (5) times the average monthly liability of taxpayers required to file returns for monthly periods, or two (2) times the

average periodic liability of taxpayers permitted or required to file returns for other than monthly or quarterly periods.

(3) Notwithstanding the provisions of subsection (2) of this section, no bond required under this section shall be less than five hundred dollars ($500).

(4) The amount of the bond provided herein may be increased or decreased by the ***department***[~~cabinet~~] at any time subject to the limitations herein provided.

(5) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a taxpayer's business until the bond is posted and any delinquent tax, including applicable interest and penalties, has been paid. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

Section 546. KRS 143A.080 is amended to read as follows:

(1) On or before the last day of the month following each calendar month, every taxpayer shall report the gross value of natural resources sold, processed, or used during the preceding month and pay the amount of tax due on forms prescribed by the ***department***[~~cabinet~~].

(2) Returns shall be signed by the taxpayer required to file the return or by his duly authorized agent but need not be verified by oath.

(3) Returns required under this section shall contain such information as the ***department***[~~cabinet~~] deems necessary for the proper administration of this chapter.

(4) The taxpayer required to file the return provided under this section shall deliver the return together with a remittance of the amount of the tax due to the ***department***[~~cabinet~~].

(5) For purposes of facilitating the administration, payment, or collection of the taxes levied by KRS 143A.020, the ***department***[~~cabinet~~] may permit or require returns or tax payments for periods other than monthly. When permitted, returns for other than monthly periods shall be filed and paid in such manner as the ***department***[~~cabinet~~] may prescribe.

(6) No taxpayer shall change from the reporting system required under this section or permitted in writing by the ***department***[~~cabinet~~], without the written authorization of the ***department***[~~cabinet~~].

(7) A tax return is required for each reporting period even though there may be no tax due.

Section 547. KRS 143A.100 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the taxpayer, the excess shall be assessed by the ***department***[~~cabinet~~] within four (4) years from the date the return was filed, except as provided in subsection (4) of this section and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the ***department***[~~cabinet~~].

(2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in subsection (1) of this section as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in KRS 143A.080.

(4) Notwithstanding the four (4) year time limitation of subsection (1) of this section, in the case of a return where the tax computed by the ***department***[~~cabinet~~] is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the ***department***[~~cabinet~~] within six (6) years from the date the return was filed.

Section 548. KRS 143A.120 is amended to read as follows:

In making a determination of tax liability the ***department***[~~cabinet~~] may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

Section 549. KRS 143A.130 is amended to read as follows:

(1) Every taxpayer liable for the reporting or payment of the taxes levied by KRS 143A.020 shall keep such records, receipts, invoices, and other pertinent papers in such form as the ***department***[~~cabinet~~] may require.

(2) Every such taxpayer shall keep such records for not less than four (4) years from the making of such records unless the ***department***[~~cabinet~~] in writing sooner authorizes their destruction.

Section 550. KRS 143A.140 is amended to read as follows:

(1) The taxes paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the ***department***[~~cabinet~~] and shall contain such information as the ***department***[~~cabinet~~] may require.

Section 551. KRS 144.110 is amended to read as follows:

As used in KRS 144.110 to 144.130, unless the context requires otherwise:

(1) "Air transportation facilities and related equipment" means any facilities, improvements, or equipment located at an airport and used, directly or indirectly, by the certificated air carrier or its customers in the carrier's business of transporting persons or property for hire. It includes exclusive space leased or owned by the certificated air carrier, common access areas, concession areas, aircraft ramps, taxiways, roadways, and vehicles which are part of an intra-airport train, subway, or automated fixed guideway transit system, but excludes any other ground vehicles and aircraft.

(2) "Investment" means all costs which, consistent with the fundamental project scope, the certificated air carrier, airport operator, or any bond trustee pays, commits to pay, or incurs in any manner for the purchase or acquisition of additional air transportation facilities for which construction was started after the base period, and related equipment which was not located at an airport in this Commonwealth prior to the base period. Included are costs directly related to the design, construction, purchase, acquisition, lease, use, or financing of part or all of the additional air transportation facilities and related equipment whether owned, leased, or used by the carrier or its customers. Financing costs shall be limited to the principal amount of bonds or other obligations, capitalized interest, and any related issuance costs and expenses. The total investment shall not be offset or otherwise reduced if the certificated air carrier or airport operator is or subsequently becomes eligible for any reimbursement from either federal funds or other funds which may be available, including funds generated directly or indirectly from passenger facility charges. Likewise, any subsequent adjustment to the total investment provided in a carrier's contractual obligation shall not adversely affect the amount of the investment if the fundamental project scope is not reduced.

(3) "Annual period" means the certificated air carrier's taxable year as provided in KRS 141.140.

(4) "Base period" means the certificated air carrier's annual period ending in 1990.

(5) "Contractually obligated" or "contractual obligation" means having entered into a written agreement or commitment to make an investment in air transportation facilities and related equipment in this state.

(6) "Gross Kentucky real wage base" means the wages subject to Kentucky income tax and Kentucky income tax withholding pursuant to KRS Chapter 141, paid by a certificated air carrier during the base period adjusted to reflect changes in the United States Department of Labor's "Employment Cost Index - Wages and Salaries" for the transportation industry or, at the option of the carrier and upon verification by the ***Department of*** Revenue[~~ Cabinet~~], the carrier's actual general wage increases, through the end of the annual period for which tax credit is claimed pursuant to KRS 144.125.

(7) "Nonqualifying employees" means employees of the certificated air carrier whose employment with the carrier began after the base period; and

(a) The employees perform essentially the same functions which, by contract or otherwise, were performed in this Commonwealth for the carrier by another company at any time after the base period; or

(b) Their employment continued in this Commonwealth as the result of the carrier's purchase, merger, or other acquisition of or combination with another company.

(8) "Fundamental project scope" means the total project consisting of the additional air transportation facilities and related equipment as reflected in the carrier's application filed pursuant to KRS 144.130. It shall be measured by the carrier's increased capacity. Measures of increased capacity may include such factors as square footage, cost, employment, passenger or freight loadings or handling capabilities, number of aircraft departures, and other factors related to the increased investment.

Section 552. KRS 144.120 is amended to read as follows:

(1) Subject to the provisions of subsections (4), (5), and (6) of this section and KRS 144.130, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a Kentucky sales and use tax credit, as computed in subsection (3) of this section, on aircraft fuel, including jet fuel, purchased after June 30, 1991, for any annual period in which the carrier meets or exceeds the investment or fuel purchase qualification requirements prescribed in subsection (2) of this section.

(2) To qualify for the sales and use tax credit provided in subsection (1) of this section, the certificated air carrier shall:

(a) Prior to or during the annual period for which the credit is claimed, have made, caused to be made, or obtained contractual obligations to make, consistent with the fundamental project scope, an investment in the aggregate of at least three hundred million dollars ($300,000,000) in new and expanded air transportation facilities and related equipment in this Commonwealth; or

(b) During the annual period for which the credit is claimed, purchase and place into the fuel supply tank of its aircraft in this state not less than one hundred million (100,000,000) gallons of aircraft fuel, including jet fuel, for the carrier's direct operation of the aircraft in interstate or foreign commerce exclusively for the conveyance of property or passengers for hire. Nominal use of the aircraft fuel in intrastate commerce shall not affect this provision.

(3) The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less four million dollars ($4,000,000). The four million dollar ($4,000,000) amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on

the Kentucky sales and use tax applicable to such aircraft fuel purchased during the twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

(4) To facilitate administration of the tax credit provided pursuant to this section, each qualifying certificated air carrier purchasing aircraft fuel, including jet fuel, on which the Kentucky sales and use tax for the annual period is reasonably expected to exceed the amount provided in subsection (3) of this section shall report and pay directly to the ***Department of*** Revenue[~~ Cabinet~~] the tax applicable to aircraft fuel, including jet fuel, purchased for its storage, use, or other consumption during the annual period, less the credit provided herein.

(5) Notwithstanding the provisions of subsection (1) of this section, no certificated air carrier shall be entitled to any tax credit pursuant to this section unless the carrier meets the requirements of subsection (2) of this section by the annual period ending in 1997.

(6) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the ***Department of*** Revenue[~~ Cabinet~~] on or before the fifteenth day of the fourth month following the end of each annual period for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

Section 553. KRS 144.125 is amended to read as follows:

(1) Subject to the provisions of subsections (4) through (9) of this section and KRS 144.130, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a general tax credit, as computed in subsection (3) of this section, for any annual period in which the certificated air carrier meets or exceeds the investment and gross wage qualification requirements prescribed in subsection (2) of this section and has elected to begin claiming the credit.

(2) To qualify for the general tax credit provided in subsection (1) of this section, the certificated air carrier shall:

(a) Prior to or during the annual period for which the credit is claimed, have made, caused to be made, or obtained contractual obligations to make, consistent with the fundamental project scope, an investment in the aggregate of at least three hundred million dollars ($300,000,000) in new and expanded air transportation facilities and related equipment in this Commonwealth; and

(b) During the annual period for which the credit is claimed, have gross wages subject to Kentucky income tax and Kentucky income tax withholding pursuant to KRS Chapter 141 which are at least fifteen million dollars ($15,000,000) greater than its gross Kentucky real wage base. In calculating the gross wages paid for the annual period for which the credit is claimed, there shall not be included the wages of any nonqualifying employees of the certificated air carrier.

(3) The general tax credit shall be an amount equal to ten percent (10%) of the increase in gross wages subject to Kentucky income tax and Kentucky income tax withholding paid by the certificated air carrier during the annual period as compared to the carrier's gross Kentucky real wage base. In calculating the gross wages paid for the annual period for which the credit is claimed, there shall not be included the wages of any nonqualifying employees of the certificated air carrier.

(4) The general tax credit may accrue for only five (5) consecutive annual periods of the qualifying certificated air carrier. The five (5) year limitation period shall begin at the election of the qualifying certificated air carrier, but not later than the carrier's annual period beginning in 1997. The tax credit shall accrue to the carrier only for the annual periods during which the carrier meets or exceeds the requirements as provided in subsection (2) of this section.

(5) The general tax credit authorized to a qualifying certificated air carrier shall not exceed three million dollars ($3,000,000) for any annual period.

(6) The general tax credit authorized to a qualifying certificated air carrier shall not exceed a total of fifteen million dollars ($15,000,000).

(7) The general tax credit authorized shall be claimed by the qualifying certificated air carrier first against its Kentucky corporation income tax liability, then against its Kentucky corporation license tax liability, with any remaining balance to be claimed against its Kentucky sales and use tax liability. The credit shall not be applied to any other liability due the Commonwealth. The ***Department of*** Revenue[~~ Cabinet~~] may prescribe the method or manner for the qualifying certificated air carrier to claim the tax credit on applicable tax returns filed with the ***department***[~~cabinet~~].

(8) If the tax liabilities against which the tax credit is to be claimed pursuant to subsection (7) of this section are not sufficient to fully absorb the allowable tax credit, or if a net operating loss carryback or other subsequent adjustment reduces the carrier's liability against which a credit authorized by this section has previously been claimed, the unused or excess balance of the allowable credit may be applied against the carrier's liabilities for the specified taxes for previous or subsequent annual periods within the five (5) year limitation period. However, no refund in excess of the net tax actually paid by the carrier shall be made by the Commonwealth because of the carrier's application of the unused or excess credit. Interest shall not apply to any tax refunded for a prior period resulting from the credit carryback provisions of this subsection.

(9) Each certificated air carrier claiming the general tax credit authorized pursuant to this section shall file an annual general tax credit reconciliation report with the ***Department of*** Revenue[~~ Cabinet~~] on or before the fifteenth day of the fourth month following the end of each annual period for which the credit is claimed. The report shall be filed as provided in

KRS 144.135 to 144.139 for each type tax against which the credit is applied.

Section 554. KRS 144.130 is amended to read as follows:

(1) No certificated air carrier shall claim any tax credit pursuant to KRS 144.110 to 144.130 until its entitlement thereto is first determined by the ***Department of*** Revenue[~~ Cabinet~~]. Upon application to the ***department***[~~cabinet~~], a certificated air carrier desiring to claim a tax credit pursuant to KRS 144.110 to 144.130 shall present documentation as may reasonably be required by the ***department***[~~cabinet~~] to define the fundamental project scope and verify the required investment, the increased capacity which is to result from the investment, and the anticipated project completion date. Documentation may include the carrier's contractual obligations, its corporation board resolutions or stockholder reports, airport board resolutions or actions, related financial transactions, and any other documentation which defines or describes the fundamental project scope and the carrier's planned investment and increased capacity. The ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] shall, upon the ***department's***[~~cabinet's~~] review of the documentation submitted by the carrier, make a tax credit entitlement determination and immediately give notice thereof to the carrier. In making an entitlement determination, the ***Department of*** Revenue[~~ Cabinet~~] shall seek whatever third-party counsel and advice deemed appropriate to satisfy itself that the fundamental project scope is sufficient to support at least a three hundred million dollar ($300,000,000) investment in additional air transportation facilities and related equipment. An entitlement granted by the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] for a certificated air carrier to claim any tax credit pursuant to KRS 144.110 to 144.139 shall be subject to the provisions of subsection (2) of this section.

(2) Any certificated air carrier which is granted entitlement to claim any tax credit pursuant to KRS 144.110 to 144.130 shall, by the anticipated project completion date specified in the carrier's application filed pursuant to subsection (1) of this section, but not later than the carrier's annual period ending in 1997, demonstrate to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that an investment of at least three hundred million dollars ($300,000,000) has been made or that the carrier has completed at least ninety percent (90%) of the fundamental project scope. An investment of three hundred million dollars ($300,000,000) or the completion of at least ninety percent (90%) of the fundamental project scope shall constitute fulfillment of the investment requirement. Without precluding the carrier's demonstration by other means, completion of ninety percent (90%) of the projected increased passenger or freight handling or loading capacity, as measured by the number of gates or loading facilities, or completion of at least ninety percent (90%) of the total square footage of the buildings, including the fixtures and equipment therefor, which were to be constructed and equipped as a part of the fundamental project scope shall demonstrate completion of at least ninety percent (90%) of the fundamental project scope. If the carrier has not made an investment of at least three hundred million dollars ($300,000,000) and has not completed at least ninety percent (90%) of the fundamental project scope by the anticipated project completion date, but not later than the carrier's annual period ending in 1997, all or a portion of the tax credit otherwise authorized pursuant to KRS 144.110 to 144.130 shall be forfeited as follows:

Fundamental Project Scope Completion Percentage	Portion of Credit Forfeited
At least 80%, but less than 90%	25%
At least 70%, but less than 80%	50%
Less than 70%	100%

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall be responsible for determining the extent of the certificated air carrier's completion of the fundamental project scope. In making the determination, the ***department***[~~cabinet~~] shall consult with the certificated air carrier, the affected airport board and, if deemed necessary, with other persons.

(4) Subject to the provisions of KRS 131.110, notwithstanding the provisions of KRS 136.076, 139.620, 141.210, 413.120, or any other provision of the Kentucky Revised Statutes limiting the time for assessing taxes, the ***Department of*** Revenue[~~ Cabinet~~] shall assess against the carrier the amount of any tax credit previously claimed which is forfeited pursuant to subsection (2) of this section. Interest at the tax interest rate as defined in KRS 131.010(6) shall apply to the forfeited tax credit amount from the date the credit was claimed until reimbursement is made to the Commonwealth. The carrier shall be allowed to claim in any applicable subsequent annual periods only that portion of the credit otherwise authorized pursuant to KRS 144.110 to 144.130 which has not been forfeited as provided in this section.

(5) The dates set forth in subsection (2) of this section may be extended by the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~], upon request by the carrier, by an amount of time equal to any delay caused by circumstances reasonably beyond the carrier's control which prevent the carrier from completing the project by the anticipated project completion date, including construction delays and delays resulting from the carrier's compliance with applicable federal, state, or local laws, rules and regulations, or an order or judgment of a court or administrative agency. They may also be extended by the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] upon the carrier's showing of any other good cause. The Governor and the Legislative Research Commission shall be immediately notified of any extension granted pursuant to this subsection and the reason for granting the same.

(6) Upon the making of an initial tax credit entitlement determination pursuant to subsection (1) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall immediately give written notification to the Governor and the Legislative Research Commission and shall include a description of the fundamental project scope and a summary of the estimated

costs. Upon making a final determination as provided in subsections (2) and (3) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall immediately give written notification to the Governor and the Legislative Research Commission of the extent to which the fundamental project scope was completed. Such notification shall include a summary of the total costs expended for the completed project and a description of any changes to or deviations from the fundamental project scope.

Section 555. KRS 144.132 is amended to read as follows:

(1) Subject to the provisions of subsection (2) of this section, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a credit against the Kentucky sales and use tax paid on aircraft fuel, including jet fuel, purchased after June 30, 2000, as determined under subsection (2) of this section.

(2) For fiscal years beginning after June 30, 2000, certificated air carriers shall pay the first one million dollars ($1,000,000) in Kentucky sales and use tax due that is applicable to the purchase of aircraft fuel, including jet fuel. The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to the purchase of aircraft fuel, including jet fuel, purchased by the certificated air carrier during each fiscal year beginning after June 30, 2000, in excess of one million dollars ($1,000,000).

(3) Each certificated air carrier purchasing aircraft fuel, including jet fuel, on which Kentucky sales and use tax for the fiscal year is reasonably expected to exceed one million dollars ($1,000,000) shall report and pay directly to the ***Department of*** Revenue[~~ Cabinet~~] the tax applicable to the purchase of aircraft fuel, including jet fuel, purchased for storage use or other consumption during the fiscal year.

(4) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the ***Department of*** Revenue[~~ Cabinet~~] on or before October 15 of the fiscal year following the fiscal year for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

Section 556. KRS 144.135 is amended to read as follows:

The general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.125 shall be submitted to the ***Department of*** Revenue[~~ Cabinet~~] in a form and contain information and documentation as the ***department***[~~cabinet~~] may reasonably require to verify the carrier's computation of the tax credit and the use of the credit against the tax levied by KRS 136.070.

Section 557. KRS 144.137 is amended to read as follows:

The sales and use tax aviation fuel tax credit reconciliation report and the general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.120, 144.125, and 144.132 shall be submitted to the ***Department of*** Revenue[~~ Cabinet~~] in a form and contain information and documentation as the ***department***[~~cabinet~~] may reasonably require to verify the carrier's computation of the applicable tax credit and the use of the credit against the taxes levied by KRS Chapter 139.

Section 558. KRS 144.139 is amended to read as follows:

The general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.125 shall be submitted to the ***Department of*** Revenue[~~ Cabinet~~] in a form and contain information and documentation as the ***department***[~~cabinet~~] may reasonably require to verify the carrier's computation of the tax credit and the use of the credit against the tax levied by KRS 141.040.

Section 559. KRS 147A.025 is amended to read as follows:

(1) Except as provided in subsection (7) of this section, the Department for Local Government with the advice and approval of the state local finance officer annually shall conduct a program to instruct county clerks, sheriffs, jailers, and county treasurers respecting their duties and responsibilities in the collection and expenditure of public moneys, subject to their control and jurisdiction.

(2) The department with the advice and approval of the state local finance officer shall establish the content and publish instructional materials essential to implementing this program. Subsequent to every regular and extraordinary session of the General Assembly, the department with the state local finance officer shall review and revise, if necessary, the program when it is found not to be consistent with state law.

(3) The department may assess a charge to any person requesting copies of instructional materials published as provided by this section to cover actual costs of printing and handling these materials, except that no county official shall be charged for instructional materials provided for his use. Funds accruing from the sale of instructional materials shall be paid into the State Treasury, and the State Treasurer shall pay these funds into an account of the department to defray the costs of printing and handling these materials.

(4) The commissioner of the department with the advice and approval of the state local finance officer may prescribe completion standards for this program, and may, subject to subsection (6) of this section, establish the number, type and sequence of instructional sessions to be conducted by the department; but the commissioner of the department shall not require the attendance of any county official, nor shall he prescribe any requirement or standard that restricts or impairs a county official or elected candidate in the lawful pursuit or conduct of the office to which he is elected.

(5) The department shall notify in advance each county clerk, sheriff, jailer, and county treasurer respecting instructional session pertinent to his office. Notification shall be by mail, and it shall be posted no later than twenty-one (21) days prior

to the instructional session. At a minimum, the notice shall give the date, time, place and title of the instruction session.

(6) The department shall conduct this program by providing a one (1) day session at various locations throughout this state in order to minimize the travel expenses of those officials attending, provided that the aggregate number of all sessions shall not exceed five (5) during any calendar year. Except as provided in subsection (7) of this section, the department may commence instruction anytime during a calendar year.

(7) The department shall not conduct a program as provided by this section during any calendar year when a general election is held for every constitutional county office. The department, however, shall commence instruction for the succeeding year within eighty (80) days following said general election.

(8) Every county official who attends an instructional session shall be paid his actual and necessary expenses in attending from the operating funds of his office.

(9) In fulfilling the requirements of this section, the department shall confer with and coordinate its duties and responsibilities with the Finance and Administration Cabinet[~~, the Revenue Cabinet~~] and the Auditor of Public Accounts. The department shall also confer with those state universities whose mission statements mandate their participation in the training of public officials, the state associations for those officials listed in subsection (1) of this section, and the Kentucky Association of Counties, respecting the implementation of this section.

Section 560. KRS 147B.100 is amended to read as follows:

(1) There is recognized as established the Governor's Financial Policy Council. The purpose of the council shall be to advise the Governor on economic and financial matters relating to revenue, budgetary, and financial management policies.

(2) The council shall consist of the secretary of Finance and Administration Cabinet, [~~the secretary of the Revenue Cabinet,~~] the state budget director, and four (4) at-large members, appointed by the Governor, who shall be persons that are knowledgeable by reason of their experience and academic training, in the fields of business, financial management or public policy. The Governor shall designate one (1) of the four (4) at-large members to serve as chairman of the council.

(3) The terms of the at-large members shall coincide with the elected term of the Governor who appointed them. Vacancies in the at-large membership of the council shall be filled by appointment by the Governor for the unexpired portion of the vacated member's term.

(4) The council shall meet at least annually and shall hold other meetings deemed necessary by a majority of the membership or when requested by the Governor.

(5) The members of the Governor's council shall serve without compensation for their services but shall be reimbursed, subject to the provisions of KRS 45.101 and state travel regulations, for all actual and necessary expenses incurred in the performance of their duties as members of the council.

Section 561. KRS 148.855 is amended to read as follows:

(1) The secretary of the Tourism Development Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the Tourism Development Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 148.857(1) do not conflict.

(3) With respect to each eligible company making an application to the secretary of the Tourism Development Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the Tourism Development Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars ($1,000,000), except for a theme restaurant destination attraction's project cost, which shall exceed five million dollars ($5,000,000), and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. If the tourism attraction project is an entertainment destination center, the sales tax refund shall be dedicated to a public infrastructure purpose that shall relate to the tourism attraction project and shall be approved by the secretary of the Tourism Development Cabinet. The applicant shall submit the public infrastructure purpose with its application. Based upon a review of these materials, if the secretary of the Tourism Development Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the Tourism Development Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

(4) After receiving a preliminary approval by the authority, the secretary of the Tourism Development Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:

(a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent

(50%) of its visitors from among persons who are not residents of the Commonwealth;

(b) Shall have costs in excess of one million dollars ($1,000,000), except for a theme restaurant destination attraction, which shall have costs in excess of five million dollars ($5,000,000);

(c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;

(d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year, except for a theme restaurant destination attraction, which shall be operating and open to the public for a minimum of three hundred (300) days per year; and

(e) Shall not adversely affect existing employment in the Commonwealth.

(5) The independent consulting firm shall consult with the authority, the Office of the State Budget Director ***and***~~[,]~~ the Finance and Administration Cabinet~~[, and the Revenue Cabinet]~~ in the development of a report on the proposed tourism attraction project. The Office of the State Budget Director ***and***~~[,]~~ the Finance and Administration Cabinet~~[, and the Revenue Cabinet]~~ shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the authority, the Office of the State Budget Director ***and***~~[,]~~ the Finance and Administration Cabinet~~[, and the Revenue Cabinet]~~ shall certify to the authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(6) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(7) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the Tourism Development Cabinet shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 562. KRS 148.859 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:

(a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company. Any increase in approved costs incurred by the approved company and agreed to by the authority shall apply retroactively for purposes of calculating the carry forward for unused inducements as set forth in KRS 139.536(3) for tax years commencing on or after July 1, 2004;

(b) A date certain by which the approved company shall have completed the tourism attraction project. Upon request from any approved company that has received final approval prior to or after July 15, 2000, the authority shall grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority;

(c) The following provisions:

1. The term shall be ten (10) years from the later of:

a. The date of the final approval of the project; or

b. The original completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement date of the term;

2. Within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 148.851 to 148.860. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the ***Department of*** Revenue~~[Cabinet]~~ that the approved company is in compliance with this section; and

3. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:

a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; or

b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days; and

(d) Upon request from an approved company that has completed at least fifty percent (50%) of an entertainment destination center, the authority shall grant an extension of up to three (3) years to the completion date specified in the agreement of the approved company, in addition to the extension provided for in paragraph (b) of this subsection. In no event shall the completion date be more than six (6) years from the date of final approval. The extension provided for in this paragraph shall be subject to the following conditions:

1. The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;

2. The term of the agreement shall not be extended; and

3. The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.

Section 563. KRS 149.570 is amended to read as follows:

(1) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the assessment due the county from each owner of timberland in accordance with the rate fixed by the county governing body and the amount of timberland acreage indicated on the property tax roll.

(2) The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue~~[Cabinet]~~.

(3) The county clerk shall deliver these bills to the sheriff for collection as provided in KRS 133.220(3).

Section 564. KRS 151.730 is amended to read as follows:

(1) The authority is hereby authorized to provide, at one (1) time or from time to time, for the issuance of its revenue bonds for the purpose of paying all or any part of the cost of any one (1) or more projects undertaken pursuant to KRS 151.720. The principal of and the interest on such bonds shall in each instance be payable solely from a special fund provided for the payment, with revenues derived from water use fees collected from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes, pledged to be set aside and deposited in such special fund. The bonds of any issue may be in one (1) or more series and any one (1) or more such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest, shall mature at such time or times not exceeding the thirtieth anniversary of their respective dates, all as may be provided by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of bonds including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the facsimile signature of the chairman of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual signature of the treasurer of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this section shall have and are hereby declared to have all qualities and incidents of negotiable instruments under the uniform commercial code of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds at public sale, and for such price as it may determine will best effect the purposes of KRS 151.720.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which such bonds shall have been issued, and shall be disbursed in such a manner and under such restrictions, if any, as the authority may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking

fund or funds for such bonds or any account or accounts therein as the authority shall have provided in the proceedings or trust indenture authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(4) The authority may issue revenue bond anticipation notes.

(5) Any holder of bonds issued under the provisions of this section or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent of the rights given in this section, may be restricted by such trust indenture or proceedings, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted under this section or under such trust indenture or the proceedings authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this section or by such trust indenture or proceedings to be performed by the authority or by any officer or employee thereof.

(6) Revenue bonds issued under the provisions of this section shall not be a debt, liability, or obligation of the Commonwealth or any political subdivision thereof and shall not be a pledge of the faith and credit of the Commonwealth or any political subdivision thereof.

(7) Revenue bonds issued by the authority shall be subject to the jurisdiction and approval of the State Property and Buildings Commission and the Capital Projects and Bond Oversight Committee and shall be subject to review by the Office of Financial Management ***established in Section 11 of this Act***.

(8) The authority shall not be required to pay any taxes and assessments to the Commonwealth or any county, municipality, or other governmental subdivision of the Commonwealth upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this section, or upon any moneys, funds, revenues, or other income held or received by the authority and the bonds or notes of the authority and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers.

(9) Contractual expenses to construct, reconstruct, provide for the major maintenance, or repair the Kentucky River locks and dams, or to maintain the channel, or to acquire real or personal property pertaining thereto, or to construct, reconstruct, maintain, or repair such property, shall be paid from the proceeds of the revenue bonds. Expenses for administrative services and necessary travel expenses and per diem compensation of authority members, shall not be paid from the proceeds of the revenue bonds. Nor shall the cabinet's cost of operating the locks be paid from the proceeds of the revenue bonds.

Section 565. KRS 153.180 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.

(2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management ***established in Section 11 of this Act*** consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:

  (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.

  (b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.

(3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.

(4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.

(5) The foundation shall be attached to the office of the secretary for the Education, Arts, and Humanities Cabinet for

administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.

(6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

Section 566. KRS 154.12-2086 is amended to read as follows:

(1) The Bluegrass State Skills Corporation may, in accordance with KRS 154.12-2084 to 154.12-2089, award a credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 to an approved company. The amount of the skills training investment credit awarded by the Bluegrass State Skills Corporation shall be an amount equal to fifty percent (50%) of the amount of approved costs incurred by the approved company in connection with its program of occupational upgrade training or skills upgrade training, the credit amount not to exceed five hundred dollars ($500) per employee and, in the aggregate, not to exceed one hundred thousand dollars ($100,000) for each approved company per biennium. The Bluegrass State Skills Corporation shall only approve one (1) application per biennium for each qualified company.

(2) The skills training investment credit shall be credited on the income tax return of the approved company filed for the fiscal year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in accordance with KRS 154.12-2088(6). The skill training investment credits allowed under KRS 154.12-2084 to 154.12-2089 shall only be used by the approved company that has been awarded the credits in accordance with KRS 154.12-2084 to 154.12-2089. The skills training investment credits provided for in this section shall be in addition to all other tax credits granted under the laws of the Commonwealth.

(3) The skills training investment credits may be carried forward for three (3) successive fiscal years of the approved company if the amount allowable as credits exceeds the income tax liability of the approved company in the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation; however, thereafter, if the amount allowable as credits exceeds the income tax liability of the approved company, the excess credits shall not be refundable or carried forward to any other fiscal year of the approved company for which a tax return of the approved company is to be filed.

(4) A qualified company shall not be entitled to receive the skills training investment credits if the qualified company requires that the employee reimburse the employer or otherwise pay for any costs or expenses incurred in connection with the occupational upgrade training or skills upgrade training.

(5) To the extent that any expenditures of a qualified company constitute approved costs and are the basis for the skills training investment credits under KRS 154.12-2084 to 154.12-2089, these expenditures shall not be eligible as the basis for grants-in-aid under Bluegrass State Skills Corporation provisions in KRS 154.12-204 to 154.12-208 or the Local Government Economic Development Program under the provisions of KRS 42.4588 to 42.4595.

(6) Priority consideration for preliminary approval under KRS 154.12-2088 shall be given to qualified companies that the Bluegrass State Skills Corporation determines to be high performance companies. A minimum of thirty percent (30%) of the total skills training investment credits authorized by the Bluegrass State Skills Corporation during any fiscal year shall be awarded to qualified companies that have been designated as high performance companies by the Bluegrass State Skills Corporation. The Bluegrass State Skills Corporation shall establish guidelines and standards for the designation of high performance companies.

(7) By October 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the Bluegrass State Skills Corporation the amount of any skills training investment credits taken pursuant to KRS 154.12-2084 to 154.12-2089 on tax returns filed during the fiscal year ending June 30 of that year.

Section 567. KRS 154.20-256 is amended to read as follows:

(1) The approval of investment funds and investment fund managers shall be made pursuant to an application to the authority submitted by a proposed fund manager on behalf of a proposed investment fund and shall include:

(a) The name, address, and Social Security number or employer identification number, as applicable, of the investment fund manager and the investment fund;

(b) The applicant's business plan, including the minimum and maximum amount of cash contributions to be solicited for the investment fund, and strategy for operation of the proposed investment fund;

(c) The amount of credits the investment fund seeks for making qualified investments;

(d) The applicant fund manager's relevant experience and demonstrated ability to manage the proposed investment fund;

(e) The location and account number of a bank account that has been established for use by the investment fund;

(f) The exemption or registration provision that is being relied upon or intended to be relied upon by both the investment fund and the investment fund manager to permit this offering of securities and the activity of the investment fund manager in relation to the offering, in compliance with applicable state and federal securities laws and regulations;

(g) A representation that the investment fund and the investment fund manager are and shall remain in compliance with applicable state and federal securities regulations; and

(h) Any additional information the authority deems necessary.

(2) The applicant shall include copies of the following documents as attachments to the application:

(a) The disclosure documents used in connection with the offering and investment in the investment fund;

(b) The disclosure documents provided to each investor which state that:

1. The investor has certain rights, responsibilities, and liabilities pursuant to KRS 154.20-250 to 154.20-284;

2. The Commonwealth shall be immune from liability for any losses or damages investors, investment funds, or investment fund managers may incur pursuant to KRS 154.20-279;

3. No tax credit shall be available under the provision of KRS 154.20-250 to 154.20-284 until the investment fund and the investment fund manager have complied with applicable state and federal securities laws and regulations and have been approved by the authority, and an agreement has been executed, and the terms of that agreement have been disclosed in writing to each investor; and

4. Investors shall lose all rights to any unused credits allocated to an investment fund that does not make a qualified investment within one (1) year of the date of the agreement with the authority or within any one (1) year period thereafter through the end of the term of the agreement.

An applicant soliciting cash contributions for the initial capitalization of an investment fund, or an investment fund manager soliciting additional cash contributions for an approved investment fund, shall disclose in advance and in writing to each potential investor those items described in this subsection in addition to any other items required by law or by agreement.

(3) The authority shall have, in addition to its other powers provided in this chapter and as otherwise provided by law, all powers and authority, not explicitly prohibited by statute, that are necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of KRS 154.20-250 to 154.20-284, including but not limited to power to:

(a) Require consultation, advisory, and legal fees and other expenses the authority deems necessary or incident to the preparation, adoption, implementation, modification, or enforcement of the terms of any agreement or other document, or otherwise necessary or incident to any transaction;

(b) Require the investment fund manager to pay these fees and expenses directly to the person providing such consultation, advisory, legal, or other services on behalf of the authority; and

(c) Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges.

Any payments made by an investment fund manager pursuant to this subsection may be passed on to the investment fund manager's investment fund.

(4) An investment fund's stated purpose shall be primarily to encourage and assist in the creation, development, or expansion of small businesses located in Kentucky.

(5) The criteria considered by the authority for the approval of investment fund managers and the maximum amount of credits allocated to the investors of an investment fund shall include but not be limited to:

(a) Compliance by those persons with applicable state and federal securities laws and regulations;

(b) A review of the application;

(c) The investment strategy for the investment fund;

(d) The relevant experience of the applicant fund manager or, if the applicant fund manager is an entity, the applicant's management;

(e) The applicant's demonstrated ability to manage the investment fund; and

(f) The amount of credits requested by the investment fund and the total amount of credits which may be granted to investors under KRS 154.20-258.

(6) Following the making of a qualified investment, the investment fund manager shall within sixty (60) days file a disclosure form with the authority detailing the following information:

(a) The name and address of the small business in which the qualified investment was made;

(b) The amount of the qualified investment; and

(c) The name, address, and Social Security number or employer identification number, as may be applicable, of each investor and the amount of credit allocated to each investor by virtue of the investor's proportional ownership interest in the qualified investment.

(7) An investment fund manager and its affiliates may operate no more than three (3) separate investment funds pursuant to separate applications submitted to and approved by the authority, provided the investment fund manager is in compliance with any applicable state and federal securities laws and regulations as evidenced by a written statement to the authority by an investment fund manager to that effect.

(8) An investment fund manager seeking to expand a previously approved investment fund shall submit to the authority an

amended application in a form acceptable to the authority.

(9) An investment fund shall lose all unused credits that are available to its investors if the investment fund does not make a qualified investment within one (1) year of the date of the agreement or within any one (1) year period thereafter through the end of the term of the agreement.

(10) The contents of the information form required under subsections (1), (2), and (6) of this section shall be treated by the authority and by the ***Department of*** Revenue[~~ Cabinet~~] as confidential and shall not be considered public records under KRS 61.870 to 61.884.

(11) The authority, in consultation with the ***Department of*** Revenue[~~ Cabinet~~], may establish additional procedures and standards, as it deems necessary for the approval of investment funds and investment fund managers, and for the allocation and granting of investment tax credits by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

Section 568. KRS 154.20-258 is amended to read as follows:

(1) An investor shall be entitled to a nonrefundable credit equal to forty percent (40%) of the investor's proportional ownership share of all qualified investments made by its investment fund and verified by the authority. The aggregate tax credit available to any investor shall not exceed forty percent (40%) of the cash contribution made by the investor to its investment fund. The credit may be applied against the income tax imposed by KRS 141.020 or 141.040, the corporation license tax imposed by KRS 136.070, the insurance taxes imposed by KRS 136.320, 136.330, and 304.3-270, and the taxes on financial institutions imposed by KRS 136.300, 136.310, and 136.505.

(2) The tax credit amount that may be claimed by an investor in any tax year shall not exceed fifty percent (50%) of the initial aggregate credit amount approved by the authority for the investment fund which would be proportionally available to the investor. An investor may first claim the credit granted in subsection (1) of this section in the year following the year in which the credit is granted.

(3) If the credit amount that may be claimed in any tax year, as determined under subsections (1) and (2) of this section, exceeds the investor's combined tax liabilities against which the credit may be claimed for that year, the investor may carry the excess tax credit forward until the tax credit is used, but the carry-forward of any excess tax credit shall not increase the fifty percent (50%) limitation established by subsection (2) of this section. Any tax credits not used within fifteen (15) years of the approval by the authority of the aggregate tax credit amount available to the investor shall be lost.

(4) The tax credits allowed by this section shall not apply to any liability an investor may have for interest, penalties, past due taxes, or any other additions to the investor's tax liability. The holder of the tax credit shall assume any and all liabilities and responsibilities of the credit.

(5) The tax credits allowed by this section are not transferable, except that:

(a) A nonprofit entity may transfer, for some or no consideration, any or all of the credits it receives under this section and any related benefits, rights, responsibilities, and liabilities. Within thirty (30) days of the date of any transfer of credits pursuant to this subsection, the nonprofit entity shall notify the authority and the ***Department of*** Revenue[~~ Cabinet~~] of:

1. The name, address, and Social Security number or employer identification number, as may be applicable, of the party to which the nonprofit entity transferred its credits;
2. The amount of credits transferred; and
3. Any additional information the authority or the ***Department of*** Revenue[~~ Cabinet~~] deems necessary.

(b) If an investor is an entity and is a party to a merger, acquisition, consolidation, dissolution, liquidation, or similar corporate reorganization, the tax credits shall pass through to the investor's successor.

(c) If an individual investor dies, the tax credits shall pass to the investor's estate or beneficiaries in a manner consistent with the transfer of ownership of the investor's interest in the investment fund.

(6) The tax credit amount that may be claimed by an investor shall reflect only the investor's participation in qualified investments properly reported to the authority by the investment fund manager. No tax credit authorized by this section shall become effective until the ***Department of*** Revenue[~~ Cabinet~~] receives notification from the authority that includes:

(a) A statement that a qualified investment has been made that is in compliance with KRS 154.20-250 to 154.20-284 and all applicable regulations; and

(b) A list of each investor in the investment fund that owns a portion of the small business in which a qualified investment has been made by virtue of an investment in the investment fund, and each investor's amount of credit granted to the investor for each qualified investment.

The authority shall, within sixty (60) days of approval of credits, notify the ***Department of*** Revenue[~~ Cabinet~~] of the information required pursuant to this subsection and notify each investor of the amount of credits granted to that investor, and the year the credits may first be claimed.

(7) After the date on which investors in an investment fund have cumulatively received an amount of credits equal to the amount of credits allocated to the investment fund by the authority, no investor shall receive additional credits by virtue of

its investment in that investment fund unless the investment fund's allocation of credits is increased by the authority pursuant to an amended application.

(8) The maximum amount of credits to be authorized by the authority shall be three million dollars ($3,000,000) for each of fiscal years 2002-03 and 2003-04.

Section 569. KRS 154.20-260 is amended to read as follows:

(1) To receive the credit provided by KRS 154.20-258, an investor shall claim the credit on the investor's annual state tax returns in the manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~].

(2) The contents of an investor's filings under subsection (1) of this section shall be treated by the authority and by the ***Department of*** Revenue[~~ Cabinet~~] as confidential and shall not be considered public records under the Kentucky Open Records Act, KRS 61.870 to 61.884.

Section 570. KRS 154.20-262 is amended to read as follows:

(1) An investment fund that violates the provisions of KRS 154.20-250 to 154.20-284 shall pay to the State Treasurer a penalty in an amount equal to the amount of all credits claimed by the investors when these credits are determined to be derived from unqualified investments, plus interest at the rate of two percent (2%) per month, compounded monthly, from the date the credits were taken. If the investment fund fails to pay the penalty and interest in full as required by the ***Department of*** Revenue[~~ Cabinet~~], each investor shall be personally liable to the ***Department of*** Revenue[~~ Cabinet~~] for that investor's share of the unpaid penalty, which shall be determined by the amount of credits received and utilized by the investor and all applicable interest. Any payment of unpaid penalty by an investor shall be included with the investor's state tax return for the period in which the failure or violation occurred. The ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] shall give notice in writing to the authority, the investment fund manager, and the investors of any penalties imposed. The ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] may abate any imposed penalty upon written request, if the investment fund manager establishes reasonable cause for the failure to make qualified investments in small businesses under the provisions of KRS 154.20-250 to 154.20-284, or to otherwise comply with the provisions of KRS 154.20-250 to 154.20-284. The State Treasurer shall deposit any amounts received pursuant to this section in the Commonwealth's general fund.

(2) The administration of this section shall be the responsibility of the ***Department of*** Revenue[~~ Cabinet~~].

Section 571. KRS 154.20-264 is amended to read as follows:

(1) Each investment fund manager shall file an annual report with the ***commissioner of the Department of Revenue***[~~secretary of the Revenue Cabinet~~] and with the authority, on or before February 15 of each year during which it manages an investment fund. This report shall include information that the authority prescribes from time to time, including but not limited to the following:

  (a) For each small business in which qualified investments are made by the investment fund during the reporting period, the name and address of the small business, the amount of qualified investments made by the investment fund, the job creation anticipated and achieved by the small business, and new products and technologies being developed by the small business;

  (b) An affidavit prepared by the investment fund manager or, if the investment fund is an entity, by an authorized officer, partner, trustee, member, or manager of the investment fund management firm that states:

    1. At the time of each qualified investment, each small business qualifies as a small business under the provisions of KRS 154.20-250 to 154.20-284;

    2. The name and address of each investor, and the amount of cash contribution to the investment fund of each investor who is entitled to the credits; and

    3. The continued compliance by the investment fund and the investment fund manager with all applicable state and federal securities laws and regulations.

(2) The authority shall provide an annual written status report to the standing Appropriations and Revenue Committee of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate, concerning the activities of the Kentucky investment fund for each fiscal year beginning with the fiscal year ended July 30, 2003. On or before November 1 of each year, the authority shall make an annual report for the preceding fiscal year to the Governor, the Legislative Research Commission, and the Kentucky Innovation Commission. The annual report shall include but not be limited to the following information:

  (a) The total number of investors and the aggregate amount of committed cash contributions to all investment funds, categorized by the types of business entities through which investors conduct business and the geographical distribution of investors, including the area development districts;

  (b) The total number and amounts of qualified investments made by each investment fund to qualified small businesses, categorized by type of businesses, amount of investment, job creation anticipated and achieved, geographical distribution, including area development districts, and new products and technologies developed; and

  (c) The total amount of credits granted to investors.

(3) The contents of the annual reports from investment fund managers to the authority described in subsection (1) of this

section shall be treated by the authority as confidential, and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.

(4) The authority may charge a fee in connection with the administration and processing of an annual report made by an investment fund manager.

Section 572. KRS 154.20-277 is amended to read as follows:

(1) Each investment fund manager shall cause the books and records of the investment fund to be audited on an annual basis by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied. The audit shall address the financial condition of the investment fund and compliance with the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284. Each year the audit report shall be completed and certified by the independent certified public accountant and delivered to the authority within ninety (90) days after the end of the investment fund's fiscal year.

(2) The authority and the ***Department of*** Revenue[~~ Cabinet~~], individually or collectively, may examine, under oath, any of the officers, trustees, partners, members, managers, directors, agents, employees, or investors of an investment fund regarding the affairs and business of the investment fund. The authority and the ***Department of*** Revenue[~~ Cabinet~~], individually or collectively, may issue subpoenas and subpoenas duces tecum and administer oaths. Refusal to obey such a subpoena or subpoena duces tecum may be reported to the Franklin Circuit Court, which shall enforce the subpoena or subpoena duces tecum according to the rules of civil or criminal procedure, as applicable.

(3) In addition to the audits required by this section, the authority or the ***Department of*** Revenue[~~ Cabinet~~] may audit one (1) or more investment funds or investment fund managers in any year on a random basis or for cause. The authority or the ***Department of*** Revenue[~~ Cabinet~~] may also audit, for cause, any small business in which an investment fund has made a qualified investment. Nothing in this section shall be construed to prohibit the ***Department of*** Revenue[~~ Cabinet~~] from conducting any audit relating to the administration or enforcement of the tax laws of the Commonwealth which the ***Department of*** Revenue[~~ Cabinet~~] determines to be appropriate.

(4) If any audit conducted pursuant to this section discloses that an investment fund or investment fund manager is not in compliance with the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284, the authority and the ***Department of*** Revenue[~~ Cabinet~~] may consult with one another with respect to this noncompliance and the ***Department of*** Revenue[~~ Cabinet~~] may exercise any of its powers to protect the Commonwealth's interest and to enforce the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284.

(5) The authority may give an investment fund manager written notice of any noncompliance with the provisions of KRS 154.20-250 to 154.20-284 and specify a period of time the investment fund manager shall have to cure any noncompliance. Failure to cure any such noncompliance within the period of time specified by the authority may result in further action by the authority pursuant to this section.

(6) Nothing in this section shall be construed to prohibit the Department of Financial Institutions, Division of Securities, or any other securities regulatory organization or body with jurisdiction over the activity of an investment fund or the investment fund manager from conducting any examination or investigation relating to the securities activities of the investment fund or investment fund manager. If any examination or investigation conducted pursuant to any securities laws or regulations discloses that an investment fund or investment fund manager is not in compliance with any provision of any applicable securities laws or regulations, the appropriate securities regulator may take whatever action it deems appropriate in accordance with such securities laws and regulations to respond to the noncompliance, notwithstanding any action the authority or the ***Department of*** Revenue[~~ Cabinet~~] may or may not take with respect to the noncompliance.

Section 573. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a tax incentive agreement with respect to its economic development project, upon adoption of a resolution authorizing the tax incentive agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each tax incentive agreement shall be determined by negotiations between the authority and the approved company.

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date.

(5) The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the ***Department of*** Revenue[~~ Cabinet~~], and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the

activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.

(7) The approved company shall comply with the hourly wage criteria set forth in KRS 154.22-040(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(8) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

(b) The aggregate assessments withheld by the approved company in each year.

(9) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.

(10) The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(11) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.

Section 574. KRS 154.22-060 is amended to read as follows:

(1) The approved company shall be entitled to a credit against the Kentucky income tax liability mandated by KRS Chapter 141, on any income that may result from the operation of the approved economic development project; the credit shall be equal to the total amount of the tax liability, and together with the aggregate assessments not to exceed the maximum amount of inducements as set forth in the tax incentive agreement.

(2) By October 1 of each year, the ***Department of*** Revenue[~~Cabinet~~] of the Commonwealth shall certify to the authority in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 575. KRS 154.23-040 is amended to read as follows:

(1) Before any approved company engaged in service or technology activity is granted inducements under KRS 154.23-005 to 154.23-079, a service and technology agreement with respect to the approved company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the service and technology agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to inclusion of the following mandatory provisions:

(a) The term of the service and technology agreement shall commence upon the activation date and shall terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date.

(b) The service and technology agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the service and technology agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the service and technology agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the service and technology agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(c) In order to implement the activation date, the approved company shall notify the authority, the Kentucky ***Department of*** Revenue[~~ Cabinet~~], the qualified statewide employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the service and technology agreement shall occur;

(d) The approved company may be permitted the following inducements during the term of the service and technology agreement:

1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under KRS 141.401, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and KRS 154.23-045; and

2. The assessment, if applicable, withheld by the approved company in each year;

(e) The inducements allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed;

(f) If the total number of full-time qualified employees at the site of the economic development project is less than ten (10) or, in the case of an existing business, the approved company fails to maintain the increase of at least ten (10) full-time qualified employees, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least ten (10) new full-time qualified employees at the site within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority;

(g) The service and technology agreement may be assigned by the approved company only upon the prior written consent of the authority; and

(h) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

(2) Before the end of the first year following the activation date, the authority shall, using data supplied by the approved company, verify and determine the total start-up costs for the approved company's economic development project. The initial approved costs shall be up to a maximum of fifty percent (50%) of the start-up costs.

(3) Each year, during the ten (10) year term of the service and technology agreement, up to fifty percent (50%) of the annualized rent shall be added to the unrecouped balance of approved costs, and the inducements earned shall be subtracted from the approved costs.

(4) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the accumulated inducements equal the unrecouped remaining balance of the approved costs then expended, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year.

(5) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the remaining balance of the approved costs then expended, the approved company shall pay the excess to the Commonwealth as income tax.

(6) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the assessment collected from the wages of the qualified statewide employees exceeds the unrecouped remaining balance of the approved costs then expended, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments.

Section 576. KRS 154.23-050 is amended to read as follows:

(1) An approved company engaged in manufacturing or in service or technology activities shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax liability that would otherwise be due to the Commonwealth from the approved company attributable to its economic development project, as limited by the provisions of KRS 154.23-045.

(2) The ***Department of*** Revenue[~~Cabinet~~] of the Commonwealth shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of qualified zone inducements on state revenues. The ***Department of*** Revenue[~~Cabinet~~] shall certify to the authority, in the form of an annual report, aggregate income tax credits and assessments taken by approved companies with respect to their economic development projects under KRS 154.23-005 to 154.23-079, and certify to the authority when an approved company has taken income tax credits and assessments equal to its total inducements. The ***Department of*** Revenue[~~Cabinet~~] shall certify to the authority, upon written request of the authority, the aggregate income tax credits and assessments taken by an approved company with respect to its economic development project under KRS 154.23-005 to 154.23-079.

Section 577. KRS 154.24-110 is amended to read as follows:

(1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and KRS 154.24-130. The amount of the approved company's income that is attributable to the economic development project shall be determined under KRS 141.407.

(a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed; and

(b) By October 1 of each year, the ***Department of*** Revenue[~~Cabinet~~] of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits and assessments equal to its total inducements.

(2) The approved company or, with the authority's consent, an affiliate of the approved company may require each employee, subject to state tax imposed by KRS 141.020, as a condition of employment, to agree to pay a service and technology job creation assessment fee up to five percent (5%) of the gross wages exclusive of any noncash benefits provided to an employee for each employee whose job has been deemed by the authority to be created as a result of the economic development project, provided that the service and technology job creation assessment fee shall not exceed the amount determined in accordance with KRS 154.24-150(5) if the circumstances in that subsection apply. Where a person is already employed by the approved company at a site other than the site of the economic development project and where that employee is subject to state tax imposed by KRS 141.020, the employee's job shall be deemed to have been created when the employee is transferred to the site of the economic development project, provided that the employee's existing job is filled with a new employee.

(a) Each employee paying the assessment shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to four-fifths (4/5) of the assessment;

(b) If the assessment has been approved by the local jurisdiction as provided in KRS 154.24-150, each employee paying the assessment also shall be entitled, in the local jurisdiction in which the economic development project is located, to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment. If more than one (1) local tax is incurred, the one-fifth (1/5) assessment shall be prorated proportionately among the taxes unless one (1) local jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the one-fifth (1/5) assessment, in which case no proration need be made;

(c) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee;

(d) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction;

(e) The approved company collecting an assessment shall make its payroll, books, and records available to the authority when the authority shall request, and shall file with the authority documentation pertaining to the assessment as the authority may require; and

(f) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the agreement.

(3) Notwithstanding subsection (2) of this section, if a local government in which the project is located has a local occupational license fee that is less than one percent (1%) and agrees to forgo all of its local occupational license fee, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee that the local government has agreed to forgo. Each employee paying the assessment under this subsection shall be entitled to a credit against Kentucky income tax, under KRS 141.350, equal to four percent (4%) and a credit against the local occupational license fee equal to the local occupational license fee that the local jurisdiction has agreed to forgo.

Section 578. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within two (2) years after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky ***Department of*** Revenue[~~ Cabinet~~], the employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15), or in the case of an existing Kentucky business the approved company fails to maintain the increase of at least fifteen (15) full-time employees who are residents of the Commonwealth and subject to the Kentucky income tax, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority;

(c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended for a period of up to one (1) year. If the percentage of these services does not exceed seventy-five percent (75%) within one (1) year from the initial date of suspension, the inducements may be terminated at the discretion of the authority; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 579. KRS 154.26-090 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into, with any approved company, an agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, the amount of the license tax credit pursuant to KRS 136.0704, and any limitations the authority may deem necessary, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) The amount the approved company may recover through inducements under this subchapter shall not exceed seventy-five percent (75%) of approved costs.

(b) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant.

(c) In consideration of the execution of the agreement, the approved company may be permitted during the time not to exceed ten (10) years during which the agreement is in effect, which time shall commence on the date of the agreement for purposes of the inducements:

1. A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic revitalization project as determined under KRS 141.403;

2. A credit against the Kentucky license tax imposed by KRS 136.070 as determined under KRS 136.0704; plus

3. The aggregate assessment withheld by the approved company in each year.

(d) The tax credits allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or the amount that the company may recover under paragraph (a) of this subsection that has not yet been recovered, reduced by any recovery through the collection of assessments and appropriations made under any appropriation agreement. The credit shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed until the amount that the company may recover under paragraph (a) of this subsection has been received through a combination of credits, assessments, if assessments are elected to be imposed, and appropriations made under any appropriation agreement. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the ***Department of*** Revenue[~~ Cabinet~~] of the Commonwealth shall certify to the authority for the preceding fiscal year of an approved company for which a return was filed with respect to an economic revitalization project of the approved company the state tax liability of the approved company receiving inducements under KRS 154.26-015 to 154.26-100 and the amount of any tax credits taken pursuant to this section.

(e) The agreement shall provide that the term shall not be longer than the earlier of:

1. The date on which the approved company has received inducements or withheld assessments equal to the amount that the company may recover under paragraph (a) of this subsection; or

2. Ten (10) years from the date of the execution of the agreement.

(f) Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

1. A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or

2. In lieu of the credit against the local occupational license fee, an appropriation agreement with the authority and the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

(g) If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.

(h) If in any fiscal year of the approved company during which the agreement is in effect the total of the tax credits granted to the approved company plus the assessment collected from the wages of the employees exceeds the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection, the approved company shall pay the excess to the Commonwealth as income tax.

(i) If in any fiscal year of the approved company during which the agreement is in effect the assessment collected from the wages of the employees exceeds the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(j) All proceeds of any loan or other financing incurred in connection with the economic revitalization project shall be expended by the approved company within five (5) years from the date of the revitalization agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic revitalization project are not fully expended within the five (5) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the five (5) year period.

(2) If the approved company elects to utilize the assessment as prescribed in KRS 154.26-100, it shall not assess the wages of an employee who is party to an individual employment contract with the approved company.

(3) Neither the appropriation agreement nor the agreement shall be transferable or assignable by the approved company without the expressed written consent of the authority.

Section 580. KRS 154.26-100 is amended to read as follows:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed, during any fiscal year of the approved company, five percent (5%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project, unless:

(a) The appropriation agreement is consummated, in which case the assessment shall be four percent (4%) of each employee's gross wages subject to the income tax imposed by KRS 141.020;

(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the assessment shall equal four percent (4%) plus the percentage of the local occupational license fee that the local government or governments have agreed to forgo; or

(c) The local government or governments in which the project is located have no occupational license fee, in which case the assessment shall be four percent (4%).

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS

141.310 in the form of a simultaneous adjustment equal to four-fifths (4/5) of the assessment, unless:

(a) The appropriation agreement is consummated, in which case the credit shall be equal to one hundred percent (100%) of the assessment;

(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the credit shall be equal to the total assessment less the local occupational license fee; or

(c) If the local government or governments in which the project is located have no local occupational license fee, in which case the credit shall be equal to one hundred percent (100%) of the assessment.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment, unless:

(a) The appropriation agreement is consummated; or

(b) The local occupational license fee is less than one percent (1%), in which case the credit shall equal the same amount as the local occupational license fee.

(4) If an approved company shall elect to impose the assessment as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsections (2) and (3) of this section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall permanently lapse upon expiration or termination of the agreement.

(7) By October 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and job revitalization assessment fees taken during the prior calendar year by approved companies with respect to their economic revitalization projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 581. KRS 154.28-090 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, an agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky ***Department of*** Revenue[~~ Cabinet~~], and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under KRS 154.28-010(11) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.

(6) The approved company shall comply with the wage criteria set forth in KRS 154.28-080(4) and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted one of the following inducements during the term of the agreement and shall select the applicable inducement at the time of final approval by the authority:

  (a) A one hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; or

  (b) The aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year.

(8) Either the total income tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.

(9) If the approved company elects to use the income tax credit, the income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:

  (a) Suspend either the income tax credits or assessments available to the approved company, pursuant to subsection (5) of this section;

  (b) Pursue any remedy provided under the agreement, including termination thereof; and

  (c) Pursue any other remedy at law to which it may be entitled.

(12) All remedies provided in subsection (11) of this section shall be deemed to be cumulative.

(13) By October 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic development projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits or assessments equal to its total inducements.

Section 582. KRS 154.34-080 is amended to read as follows:

The authority, upon adoption of its final approval, may enter into with any approved company a reinvestment agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each reinvestment agreement shall include the following provisions:

(1) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document its expenditures of the eligible costs attributable to the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of a consultant or other technical resources employed by the authority;

(2) In consideration of the execution of the agreement between the authority and approved company, the approved company may be permitted one (1) or both of the following inducements:

  (a) A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the reinvestment project as determined under KRS 141.415;

  (b) A credit against the Kentucky license tax imposed by KRS 136.070 on the approved company as determined under KRS 141.416;

(3) The total inducements authorized in the agreement for the benefits of the approved company shall be equal to the lesser of the total amount of the tax liability or the approved costs that have not yet been recovered. The inducements shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the project;

(4) The agreement shall provide that the term shall not be longer than the earlier of:

  (a) The date on which the approved company has received inducements equal to the approved costs of its reinvestment project; or

  (b) Ten (10) years from the date of final approval granted by the authority;

(5) All eligible costs of the project shall be expended by the approved company within three (3) years from the date of final approval by the authority. In the event that all eligible costs of the project are not fully expended by the approved company within the three (3) year period, the authority is authorized to:

(a) Reduce the inducements; or

(b) Suspend the inducements; or

(c) Terminate the agreement;

(6) If the agreement is terminated, the authority may require the approved company to repay the ***Department of*** Revenue[~~Cabinet~~] of the Commonwealth all or part of any inducements received by the approved company prior to the termination of the agreement;

(7) The agreement shall specify that the approved company shall make available all of its records pertaining to the project, including but not limited to payroll records, records relating to the expenditure of eligible costs and approved costs, and any other records pertaining to the project as the authority may require; and

(8) The agreement shall not be transferred or assigned by the approved company without the expressed written consent of the authority.

Section 583. KRS 154.34-090 is amended to read as follows:

By October 1 of each year, the ***Department of*** Revenue[~~Cabinet~~] of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year by approved companies with respect to their reinvestment projects under KRS 154.34-010 to 154.34-100, 141.415, and 141.416, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken inducements equal to its approved costs.

Section 584. KRS 154.45-060 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 154.45-020 to 154.45-110, there is created the Enterprise Zone Authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky League of Cities; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business community; one (1) member appointed by the Governor from a list of three (3) persons nominated by the AFL-CIO of Kentucky; two (2) members appointed by the Governor to serve at large; one (1) member appointed by the Governor from a list of five (5) persons nominated by the secretary of the Cabinet for Economic Development; the secretary of the Cabinet for Economic Development or his designee; the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet or his designee; and the secretary of the Cabinet for Families and Children or his designee.

(2) Authority members shall serve a term of four (4) years and, except for the secretary of the Cabinet for Economic Development, the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet, and the secretary of the Cabinet for Families and Children, shall not be eligible to succeed themselves.

(3) The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as an enterprise zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings. All members shall serve until such time as their successors are qualified and appointed. Each member of the authority shall receive one hundred dollars ($100), not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.

(4) The Cabinet for Economic Development shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 585. KRS 154.45-070 is amended to read as follows:

The authority shall administer the provisions of KRS 154.45-020 to 154.45-110, and shall:

(1) Establish by administrative regulation a process to monitor compliance by local governments and qualified businesses with the provisions of the Enterprise Zone Program;

(2) Initiate contact and fully cooperate with the ***Department of*** Revenue[~~Cabinet~~] in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues;

(3) Report to the General Assembly no later than October 1 annually regarding:

(a) The authority's method of monitoring the Enterprise Zone Program;

(b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues;

(c) The authority's method of reviewing local incentives;

(d) Information on the number of qualified businesses per zone;

(e) Information on the number of requests for amendments to zone boundaries and the number of amendments granted and denied; and

(f) Recommendations requiring state legislative action;

(4) Revoke designation of an area as an enterprise zone pursuant to the provisions of KRS 154.45-050.

(5) Prohibit the certification of businesses in an enterprise zone if the local government has been notified in writing by the authority of the authority's intent to revoke the local government's designation as an enterprise zone. The prohibition of certification of businesses shall continue until the authority officially revokes the local government's enterprise zone designation, or notifies the local government in writing that the problems cited by the authority have been corrected and the enterprise zone designation shall not be revoked;

(6) Offer technical assistance and job training assistance to local governments, qualified businesses, and neighborhood enterprise association corporations; and

(7) Aggressively review local incentives and commitments on an annual basis.

Section 586. KRS 154.45-110 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues.

(2) Report to the General Assembly no later than October 1 annually regarding:

(a) The ***department's***[~~cabinet's~~] method of monitoring the Enterprise Zone Program;

(b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues; and

(c) Recommendations requiring state legislative action.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall by administrative regulation amend its sales and use tax return to collect fiscal information on qualified businesses within an enterprise zone for purposes of reporting to the General Assembly.

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations to establish a process for the collection of tax information relating to enterprise zone tax exemptions.

Section 587. KRS 156.076 is amended to read as follows:

The chief state school officer shall furnish full information on established price contracts to each district board of education. Any board of education may purchase supplies and equipment from the vendor to whom the contract has been awarded, under the terms of the contract. Any board of education may advertise for its own bids on supplies and equipment which meet the specifications of the contracts awarded by the ***Office***[~~Division~~] of Material and Procurement Services ***in the Office of the Controller***. Any board of education, after advertising for bids, may award contracts if the chief state school officer certifies that the bid offers supplies and equipment which meet the standards and specifications fixed by the Kentucky Board of Education and that the bid price is lower than that established by the price contract agreement. If supplies and equipment that meet the specifications of the contracts awarded by the ***Office***[~~Division~~] of Material and Procurement Services or a federal, local, or cooperative agency are available for purchase elsewhere, a board of education may purchase those supplies and equipment without advertising for bids. However, prior to making the purchases, the board of education shall obtain certification from:

(1) The Department of Education for technology components defined in the master plan for education technology for which standards have been established by the Kentucky Board of Education. The department shall certify that the items to be purchased meet or exceed, at a lower cost, the specifications of the components of the original equipment of manufacturers currently holding Kentucky education technology system price contracts; and

(2) The district's finance officer for supplies and equipment other than that described in subsection (1) of this section. He shall certify that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, the local school district's bid, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the price contract agreement or available through the bidding process and the price does not exceed two thousand five hundred dollars ($2,500).

Section 588. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~], the secretary of the Education, Arts, and Humanities Cabinet, and the president of the Council on Postsecondary Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;

(b) One (1) member of the House of Representatives;

(c) One (1) member of the Senate; and

(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed

for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall receive no compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of rights-of-way for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 589. KRS 157.615 is amended to read as follows:

As used in KRS 157.611 to 157.640, unless the context requires otherwise:

(1) "Available local revenue" means the sum of the school building fund account balance; the bonding potential of the capital outlay and building funds; and the capital outlay fund account balance on June 30 of odd-numbered years. These accounts shall be as defined in the manual for Kentucky school financial accounting systems;

(2) "Board of education" means the governing body of a county school district or an independent school district;

(3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or issued by a city, county, or other agency or instrumentality of the Board of Education, in accordance with KRS Chapter 162, payable as to principal and interest from rentals received from a board of education or from the department pursuant to a lease or from contributions from the commission, and constitute municipal bonds exempt from taxation under the Constitution of the Commonwealth;

(4) "Department" means the State Department of Education;

(5) "District technology plan" means the plan developed by the local district and the Department of Education and approved by the Kentucky Board of Education upon the recommendation of the Council for Education Technology;

(6) "Equivalent tax rate" means the rate which results when the income from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the ***Department of*** Revenue~~[Cabinet]~~ as provided by KRS 160.470;

(7) "Kentucky Education Technology System" means the statewide system set forth in the technology master plan issued by the Kentucky Board of Education with the recommendation of the Council for Education Technology and approved by the Legislative Research Commission;

(8) "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the commission as lessor and a board of education as lessee, or executed by the commission as lessor and the department as lessee, as the case may be;

(9) "Lease/purchase agreement" means a lease between the school district or the department and a vendor that includes an option to purchase the technology equipment or software at the end of the lease period;

(10) "Percentage discount" means the degree to which the commission will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the commission on behalf of a local school district;

(11) "Project" means a defined item of need to construct new facilities or to provide major renovation of existing facilities which is identified on the priority schedule of the approved school facilities plan;

(12) "School facilities plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by administrative

regulations of the Kentucky Board of Education;

(13) "Technology master plan" means the long-range plan for the implementation of the Kentucky Education Technology System as developed by the Council for Education Technology and approved by the Kentucky Board of Education and the Legislative Research Commission;

(14) "Unmet facilities need" means the total cost of new construction and major renovation needs as shown by the approved school facilities plan less any available local revenue;

(15) "Unmet technology need" means the total cost of technology need as shown by the approved technology plan of the local district; and

(16) "Eligible district" means any local school district having an unmet facilities need, as defined in this section, in excess of one hundred thousand dollars ($100,000) or a district qualifying for education technology funding.

Section 590. KRS 160.460 is amended to read as follows:

(1) All school taxes shall be levied by the board of education of each school district. The tax-levying authority shall levy an ad valorem tax within the limits prescribed in KRS 160.470, which will obtain for the school district the amount of money needed as shown in the district's general school budget submitted under the provisions of KRS 160.470.

(2) The tax-levying authority shall make an annual school levy not later than July 1. The school levy shall not be made until the general school budget has been received and approved by the Kentucky Board of Education. The failure of the authority to make the levy by the date prescribed shall not invalidate any levy made thereafter.

(3) All school taxes shall be levied on all property subject to local taxation in the jurisdiction of the tax-levying authority. If the school levy is to be made upon the city assessment, which is hereby authorized for independent school districts embraced by cities of the first four (4) classes, the clerk of the city shall furnish to the school district or districts which the city embraces, the assessed valuation of property subject to local taxation in the school district, as determined by its tax assessor. If the school levy is to be made upon the county assessment the county clerk shall furnish to the proper school district or districts the assessed valuation of property subject to local taxation in the district or districts, as certified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~]. No later than July 1, 1994, all real property located in the state and subject to local taxation shall be assessed at one hundred percent (100%) of fair cash value.

Section 591. KRS 160.470 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection (9) of this section and KRS 157.440.

(b) If an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the "...general tax rate that could have been levied in the preceding year...," referred to in subsection (1)(a) of this section, for purposes of computing the general tax rate for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(2) No district board of education shall levy a general tax rate within the limits imposed in subsection (1) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection (9) of this section, KRS 157.440, and KRS 157.621, until the district board of education has complied with the provisions of subsection (7) of this section.

(3) Upon receipt of property assessments from the ***Department of*** Revenue[~~ Cabinet~~], the commissioner of education shall certify the following to each district board of education:

(a) The general tax rate that a district board of education could levy under the provisions of subsection (1) of this section, and the amount of revenue expected to be produced;

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate the amount of revenue expected to be produced;

(c) The general tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced.

(4) Upon completion of action on property assessment data, the ***Department of*** Revenue[~~ Cabinet~~] shall submit certified property assessment data as required in KRS 133.125 to the chief state school officer.

(5) Within thirty (30) days after the district board of education has received its assessment data, the rates levied shall be forwarded to the Kentucky Board of Education for its approval or disapproval. The failure of the district board of education to furnish the rates within the time prescribed shall not invalidate any levy made thereafter.

(6) (a) Each district board of education shall, on or before January 31 of each calendar year, formally and publicly examine detailed line item estimated revenues and proposed expenditures for the subsequent fiscal year. On or before May 30 of each calendar year, each district board of education shall adopt a tentative working budget which

shall include a minimum reserve of two percent (2%) of the total budget.

(b) Each district board of education shall submit to the Kentucky Board of Education no later than September 30, a close estimate or working budget which shall conform to the administrative regulations prescribed by the Kentucky Board of Education.

(7) (a) Except as provided in subsection (9) of this section and KRS 157.440, a district board of education proposing to levy a general tax rate within the limits of subsection (1) of this section which exceed the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing the following to be published at least twice for two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The general tax rate levied in the preceding year, and the revenue produced by that rate;
2. The general tax rate for the current year, and the revenue expected to be produced by that rate;
3. The compensating general tax rate, and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for testimony.

(8) (a) That portion of a general tax rate, except as provided in subsection (9) of this section, KRS 157.440, and KRS 157.621, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, except as provided in subsection (9) of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The fact that the district board of education has adopted such a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
3. The name, address, and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

(9) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents ($0.30) for general school purposes. Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the ***Department of*** Revenue[~~ Cabinet~~]. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.

(b) If a board fails to comply with paragraph (a) of this subsection, its members shall be subject to removal from office for willful neglect of duty pursuant to KRS 156.132.

Section 592. KRS 160.6131 is amended to read as follows:

As used in KRS 160.613 to 160.617:

(1) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~].

(2) "Communications service" shall have the same meaning as provided in KRS 139.195 but does not include:

(a) Prepaid calling services;

(b) Interstate telephone service, if the interstate charge is separately itemized for each call; and

(c) If the interstate calls are not itemized, the portion of telephone charges identified and set out on the customer's bill as interstate as supported by the provider's books and records.

(3) "Gross cost" means the total cost of utility services including the cost of the tangible personal property and any services associated with obtaining the utility services regardless from whom purchased.

(4) "Gross receipts" means all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of utility services.

(5) "Utility services" means the furnishing of communications services, electric power, water, and natural, artificial, and mixed gas.

Section 593. KRS 160.627 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall, where that ***department***[~~cabinet~~] is not acting as such, make available to the tax collector, or to the school district, where the ***Department of*** Revenue[~~ Cabinet~~] is acting as tax collector under subsection (2) of this section, by October 1 of each year, such information as the tax collector or the school district may request concerning the state income tax liability of the school district residents. ***This***[~~Such~~] information shall be made available on a confidential basis as provided in KRS 131.190.

(2) The ***Department of*** Revenue[~~ Cabinet~~], upon request by a school district, shall act as tax collector for the school tax authorized by KRS 160.621, and the ***Department of*** Revenue[~~ Cabinet~~], where so acting, KRS 160.625 notwithstanding, may in its own discretion incorporate its tax collecting duties with those relative to collection of state individual income taxes under KRS Chapter 141, thereby making an individual's tax payment hereunder due along with his individual income tax payment and subject to law applicable to such as to time and manner of payment. Tax required to be paid under the provisions of this chapter shall be remitted together with the state income tax return. The ***Department of*** Revenue[~~ Cabinet~~], when so acting, KRS 160.500 notwithstanding, shall remit school excise taxes collected to the school districts for which it is acting as tax collector in a reasonably timely and expeditious manner.

Section 594. KRS 160.637 is amended to read as follows:

(1) "Requesting school districts" shall mean those school districts for which the ***Department of*** Revenue[~~ Cabinet~~] is requested to act as tax collector under the authority of KRS 160.627(2).

(2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the ***Department of*** Revenue[~~ Cabinet~~], for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on the basis agreed upon by the boards of education and the tax collector. The expenses shall be borne by the school districts on a basis proportionate to the revenue received by the districts.

(3) The following shall apply only when the ***Department of*** Revenue[~~ Cabinet~~] is acting as tax collector under the authority of KRS 160.627(2):

(a) When the ***department***[~~cabinet~~] is initially requested to be the tax collector under KRS 160.627(2), the ***department***[~~cabinet~~] shall estimate the costs of implementing the administration of the tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the ***department***[~~cabinet~~] ten percent (10%) of this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the ***department***[~~cabinet~~]. Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the ***department***[~~cabinet~~] has fully recovered the costs. The payment shall be made within thirty (30) days of notification by the ***department***[~~cabinet~~].

(b) The ***Department of*** Revenue[~~ Cabinet~~] shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the ***department***[~~cabinet~~] in collecting the excise tax. The expenses, which shall be deducted by the ***Department of*** Revenue[~~ Cabinet~~] from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the ***department***[~~cabinet~~] to school districts on a basis proportionate to the number of returns processed by the ***Department of*** Revenue[~~ Cabinet~~] for each district compared to the total processed by the ***Department of*** Revenue[~~ Cabinet~~] for all districts.

(c) All funds received by the ***department***[~~cabinet~~] under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the ***department***[~~cabinet~~] for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.

(d) The ***department***[~~cabinet~~] may retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account shall be to authorize the ***Department of*** Revenue[~~Cabinet~~] to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580(4), and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580(5), within four (4) years of payment.

(e) KRS 160.621 notwithstanding, when the ***department***[~~cabinet~~] is acting as tax collector under the authority of KRS 160.627(2), the requesting school district may enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.

(f) Beginning August 1, 1982, any school district which requests the ***department***[~~cabinet~~] to collect taxes under the authority of KRS 160.627(2) shall inform the ***department***[~~cabinet~~] of this request not less than one hundred fifty (150) days prior to January 1.

(g) The ***department***[~~cabinet~~] shall not be required to collect taxes authorized in KRS 160.621 of an individual when the ***department***[~~cabinet~~] is not pursuing collection of that individual's state income taxes. The ***department***[~~cabinet~~] shall not be required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.

(h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. No individual's tax payment shall be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.

(i) KRS 160.510 notwithstanding, the State Auditor shall be the only party authorized to audit the ***Department of*** Revenue[~~Cabinet~~] with respect to the performance of its duties under KRS 160.621.

Section 595. KRS 160.640 is amended to read as follows:

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be required to secure a corporate surety bond in an amount to be set by the Kentucky Board of Education. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633.

160.640 Custodian of tax funds to give bond -- Expense, how paid. (Effective July 1, 2005)

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633, except the ***Department of*** Revenue[~~Cabinet~~], shall be required to secure a corporate surety bond in an amount to be set by the Kentucky Board of Education. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633.

Section 596. KRS 164.357 is amended to read as follows:

(1) There is established as a separate administrative body of state government the Governmental Services Center at Kentucky State University which shall be attached to the ***Personnel***[~~Finance and Administration~~] Cabinet for administrative purposes. The center shall be governed by the Governmental Services Center Authority.

(2) The authority shall consist of the president of Kentucky State University, who shall be chairman, the secretary of the Finance and Administration Cabinet, the secretary of the Personnel Cabinet, two (2) members appointed by the Governor, each of whom shall serve as ex officio voting members of the authority, and two (2) other voting members to be appointed by the chairman of the authority. Appointed members shall be citizens and residents of the Commonwealth of Kentucky. The initial term of one (1) of the members appointed by the chairman shall be for two (2) years, and the initial term of the other appointed member shall be for a term of four (4) years; thereafter, all appointments shall be for terms of four (4) years, but appointed members shall be removable at will by the chairman of the authority.

(3) The Governmental Services Center at Kentucky State University, under direction of the authority, shall be responsible for the development, coordination, content, approval, and implementation of all training, employee development, and related programs conducted for and on behalf of all program cabinets, departments, administrative bodies, and program managers of the state government. The center shall conduct, or cause to be conducted, ongoing management training programs for all program managers and supervisors within the executive branch of state government. The organizational units whose supervisors and managers received training at the center shall share the cost of the training on a pro rata basis. The center shall encourage the enrollment of state employees in academic courses and programs at Kentucky State University. If desired academic courses are not available at the university, and cannot feasibly be developed by the university, other universities and community colleges within the Commonwealth shall be utilized. The authority shall determine the appropriateness of all such programs.

(4) The authority may employ an executive director and other employees necessary to perform the functions of the center in accordance with the provisions of KRS Chapter 18A. The executive director or any staff member of the center may hold concurrently with their employment by the center, and subject to the provisions of KRS 164.360 and 164.365, faculty

appointments of appropriate rank at Kentucky State University.

(5) Members of the authority who are not either state or university employees shall be reimbursed for their actual expenses in attending meetings for the authority.

Section 597. KRS 164A.703 is amended to read as follows:

(1) The fund shall be governed by an eleven (11) member board of directors. The board shall have five (5) ex officio voting members including the State Treasurer, the president of the Council on Postsecondary Education or designee, the secretary of the Finance Cabinet or designee,[~~ the secretary of the Revenue Cabinet or designee,~~] the chair of the Association of Independent Kentucky Colleges and Universities or designee, three (3) members appointed by the State Treasurer, and three (3) members appointed by the Governor. The executive director of the Higher Education Assistance Authority or designee shall serve as a nonvoting member. The gubernatorial and State Treasurer appointees shall have experience in finance, accounting, or investment management.

(2) Of the members to be appointed initially by the State Treasurer, one (1) shall be appointed for a three (3) year term, and two (2) shall be appointed for a four (4) year term; of the members to be appointed by the Governor, two (2) shall be appointed for a two (2) year term and one (1) for a three (3) year term. Thereafter, all appointments shall be for terms of four (4) years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be appointed to serve for more than two (2) successive four (4) year terms. No person holding a full-time office or position of employment with the state, any county or city, or any educational institution shall be eligible for gubernatorial appointment to the board.

(3) Members of the board shall receive no compensation but shall be reimbursed expenses incurred in the performance of their duties at the same per diem and travel rate as is paid the employees of the state.

(4) The State Treasurer shall be the chair and presiding officer of the board. The State Treasurer may appoint other officers as the board may deem advisable or necessary. A majority of the members of the board shall constitute a quorum for the transaction of the business of the fund.

(5) The initial board appointments shall be made by October 1, 2000.

Section 598. KRS 165A.340 is amended to read as follows:

(1) There is hereby established a State Board for Proprietary Education which shall be attached to the Cabinet for Finance and Administration, ***Office of Administrative Services***[~~Department for Administration~~], Division of Occupations and Professions and shall consist of eleven (11) voting members to be appointed by the Governor as follows:

  (a) Three (3) members representative of privately owned educational institutions appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;

  (b) Three (3) members representative of technical schools appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools; and

  (c) Five (5) members representative of the public at large.

(2) The term of each member shall be four (4) years or until a successor is appointed. If a vacancy occurs on the board, a new member shall be appointed to serve the remainder of the unexpired term.

(3) The director of the Division of Occupations and Professions in the Finance and Administration Cabinet shall serve as executive director of the board. Members of the board shall annually elect one (1) of their number as chairman. The board may make all rules and regulations, including the establishment of fees and other charges consistent with the provisions of this chapter, as may be necessary to carry out the provisions and purposes of this chapter.

(4) The board shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places as the board may designate and the majority of the members shall constitute a quorum.

(5) The board may sue and be sued in its own name.

(6) The members of the board shall receive one hundred dollars ($100) per day for each meeting attended and may be paid their travel and other expenses while employed upon the business of the board.

(7) The board shall administer the provisions of law pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.

(8) The board shall have the power to subpoena witnesses and school records as it deems necessary.

Section 599. KRS 171.420 is amended to read as follows:

The State Archives and Records Commission, is hereby created and shall be a seventeen (17) member body constituted as follows: The state librarian or his designee, who shall be the chairman of the commission, secretary of the Education, Arts, and Humanities Cabinet or his designee, the Auditor of Public Accounts or his designee, the Chief Justice of the Supreme Court or his designee, the director of the Legislative Research Commission or his designee, the Attorney General or his designee, the director of the Office for Policy and Management ***in the Office of the Controller*** or his designee, the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~] or her or his designee, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association, one (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, four (4) citizens at large, and one (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. The commission shall advise the Department for Libraries and Archives on matters relating to archives and records management. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

Section 600. KRS 175.810 is amended to read as follows:

The Transportation Cabinet shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for economic development road projects. Upon receiving such certification, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] shall cause said amount to be deposited from road fund receipts to the credit of the economic development road account, hereby created, in the transportation fund (road fund). Such taxes collected in excess of the amount required to be deposited to the economic development road account in the transportation fund (road fund) shall be deposited by the ***Department of*** Revenue[~~ Cabinet~~] to the credit of the transportation fund (road fund).

Section 601. KRS 179.720 is amended to read as follows:

(1) Upon the creation of a subdivision road district as provided in KRS 179.700 to 179.735, the trustees of such district are hereby authorized to levy a tax rate upon the property in said district, provided that said property is subject to county tax, and not exceeding ten cents ($0.10) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the maintenance of roads within the subdivision district. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The trustees of a district may contract with the county containing the district to perform maintenance on or to provide personnel, materials or equipment for maintenance to be performed upon any road in the district. The county may maintain or provide personnel, materials or equipment for the maintenance of the roads of a district, so long as the district agrees to pay the county's total cost of providing services, personnel, materials or equipment.

(3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue[~~Cabinet~~].

(4) Such taxes shall be subject to the same delinquency date, discounts, penalties and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of four percent (4%) of the amount collected by him.

Section 602. KRS 186.025 is amended to read as follows:

Effective January 1, 1981, the Transportation Cabinet shall, by April 1 of each year, provide the ***Department of*** Revenue[~~ Cabinet~~] with a listing of all owners of motor vehicles registered in Kentucky on an anniversary basis under KRS 186.051 as of the preceding January 1. ***The***[~~Such~~] listing shall be by counties and shall contain, in addition to the name of the owners, the owners' addresses, and the make, model and year of all vehicles owned by the registrants. The county clerk shall continue to provide copies of motor vehicle registration certificates on all motor vehicles not registered under the provisions of KRS 186.051.

Section 603. KRS 186.232 is amended to read as follows:

(1) The county clerk shall not transfer the registration on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.

(2) The county clerk shall not transfer the registration of any motor vehicle unless the transferee presents proof of insurance in compliance with KRS 304.39-080 and KRS 186.190.

(3) If a notarized affidavit is required and available under KRS 138.450, the county clerk shall not transfer the registration of a motor vehicle unless the notarized affidavit attesting to the total and actual consideration paid or to be paid for the motor vehicle is presented to the clerk at the time of the transfer. If a notarized affidavit is required but is not available, the county clerk shall contact the ***Department of*** Revenue[~~ Cabinet~~] to determine the "retail price" of the vehicle and any taxes due prior to transferring the vehicle.

Section 604. KRS 186.655 is amended to read as follows:

(1) Before any owner or operator of a trailer, semitrailer, or recreational vehicle may operate upon the highways, the owner shall apply for registration to the county clerk of the county in which he resides or in which the vehicles are principally operated. The application shall be retained by the clerk and shall be accompanied by:

(a) A manufacturer's certificate of origin, if the application is for the registration of a new trailer, semitrailer, or recreational vehicle;

(b) The owner's registration receipt, if the trailer, semitrailer, or recreational vehicle was last registered in this state;

(c) A bill of sale and the previous registration receipt, if last registered in another state that does not require the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;

(d) A certificate of title, if last registered in another state that requires the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;

(e) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle assembled or constructed for his personal use on the highways; or

(f) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle where the bill of sale for the vehicle has been lost, destroyed, or stolen.

(2) The affidavit required in paragraph (e) of subsection (1) of this section shall contain the owner's name, address, date, brief description, and a statement that the trailer was constructed by the owner for use on the highways and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(3) The affidavit required in paragraph (f) of subsection (1) of this section shall contain the owner's name, address, date, make, year made, serial or identification number, name of the person from whom purchased, date of purchase, a statement that the person making the affidavit is the sole owner, the circumstances under which the bill of sale was lost, destroyed, or stolen, and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(4) After initial registration of his vehicles in this state, the owner shall register his trailer, semitrailer, or recreational vehicle on or before April 1 of each year. Registration with the clerk shall be deemed to be registration with the cabinet.

(5) A county clerk or other officer shall not issue license tags to the owner of a recreational vehicle when it is offered for registration in this state, unless the owner presents a tax receipt from the seller verifying that the Kentucky sales tax has been paid. If the owner is unable to present evidence of payment of tax, he shall furnish to the clerk a bill of sale indicating the purchase price of the recreational vehicle on which price the sales tax shall be assessed. If he cannot furnish a bill of sale indicating the purchase price, the clerk shall assess the value in accordance with information prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The clerk shall collect the tax, deduct a fee of five percent (5%) of the amount collected and remit the balance to the ***Department of*** Revenue[~~ Cabinet~~].

Section 605. KRS 186A.015 is amended to read as follows:

(1) Except as provided for in KRS 235.050, the titling and registration of motorboats as defined in KRS 235.010 shall be administered through the automated motor vehicle and trailer registration and titling system developed and implemented under the provisions of KRS 186A.010.

(2) The Transportation Cabinet, the Natural Resources and Environmental Protection Cabinet, the ***Department of*** Revenue[~~ Cabinet~~], and all other agencies of state government affected by the system are hereby directed to cooperate in the orderly implementation of this system.

(3) The Transportation Cabinet, as far as practicable, and not inconsistent with the provisions of KRS Chapter 235, shall promulgate administrative regulations requiring the procedures for boat titling and registration to be consistent with motor vehicle titling and registration. These administrative regulations may pertain but shall not be limited to the following:

(a) Conditions and characteristics of certificate of title forms;

(b) Comparison and identification of hull identification numbers;

(c) Application for title or registration;

(d) Processing of title applications;

(e) Form of certificate of title;

(f) Notation of security interests or title;

(g) Title lien statements;

(h) Transfer of boat ownership;

(i) Duplicate certificate of title or registration; and

(j) Salvage titles.

Section 606. KRS 186A.025 is amended to read as follows:

(1) (a) The Finance and Administration Cabinet shall have full responsibility and authority for day-to-day administration of the automated system described by this chapter; and

(b) May request the assistance of any cabinet or department of state government in carrying out its responsibilities under this chapter.

(2) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the Department of State Police, and to other law enforcement agencies state and

nationwide, regarding vehicles registered and, when required, titled in this state.

Section 607. KRS 186A.030 is amended to read as follows:

In order to improve collection of personal property (ad valorem) taxes associated with motor vehicles and trailers, the Department of Vehicle Regulation, in cooperation with the ***Department of*** Revenue[~~ Cabinet~~], shall:

(1) Ensure that the automated system provided by this chapter is capable of properly assigning a value for each vehicle registered in a county, utilizing a value reference manual in machine readable form approved by the ***Department of*** Revenue[~~ Cabinet~~], and a manually entered value for vehicles not shown in such "manual."

(2) Promptly study the feasibility of computing personal property (ad valorem) taxes associated with motor vehicles or trailers, and producing tax bills or notices of taxes due in such regard, and if shown feasible to its satisfaction, implement such capability, or any part thereof, as expeditiously as practicable.

(3) Ensure that the automated system is capable of receiving the record of a lien for unpaid personal property (ad valorem) taxes associated with an owner of a motor vehicle or trailer. No motor vehicle dealer shall be responsible for the payment of a tax lien on a motor vehicle which is received as trade-in or otherwise obtained by the dealer.

Section 608. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky pursuant to KRS 304.39-087 and 304.39-085. The department shall provide appropriate insurance information to the ***Commonwealth Office of***[~~Governor's Office for~~] Technology for inclusion in the AVIS database to assist in identifying uninsured motor vehicles.

(2) (a) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, or on and after January 1, 2006, if the vehicle identification number (VIN) of a personal motor vehicle does not appear in the database created by KRS 304.39-087 for two (2) consecutive reporting months, the department shall immediately make a determination as to the notification of the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:

1. The person presents proof of insurance to the county clerk and pays the reinstatement fee required by KRS 186.180;

2. The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

3. The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

4. The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(b) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by paragraph (a) of this subsection. The notice that the department gives to the county attorney in accordance with paragraph (a) of this subsection shall include a certified copy of the person's driving record which shall include:

1. The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

2. A dated notice that the department sent to the person requiring the person to present proof of insurance to the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with paragraph (a) of this subsection.

(c) The certified copies sent by the department described in paragraph (b) of this subsection, shall be prima facie evidence of a violation of KRS 304.39-080.

(d) If the insured provides proof of insurance to the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

(3) (a) In developing the mechanism to electronically transfer information pursuant to KRS 304.39-087, the commissioner of the Department of Vehicle Regulation shall consult with the commissioner of the Department of Insurance and insurers of personal motor vehicles to adopt a standardized system of organizing, recording, and transferring the information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators.

(b) Notwithstanding any other provision of law, information obtained by the department pursuant to KRS 304.39-087 shall not be subject to the Kentucky Open Records Act, KRS 61.872 to 61.884, and shall not be disclosed, used, sold, accessed, utilized in any manner, or released by the department to any person, corporation, or state and local agency, except in response to a specific individual request for the information authorized pursuant to the federal Driver's Privacy Protection Act, 18 U.S.C. secs. 2721 et seq. The department shall institute measures to ensure that only authorized persons are permitted to access the information for the purposes specified by this section. Persons who knowingly release or disclose information from the database created by KRS 304.39-087 for a purpose other than those described as authorized by this section or to a person not entitled to receive it shall be guilty of a Class A misdemeanor for each release or disclosure.

Section 609. KRS 186A.060 is amended to read as follows:

The Department of Vehicle Regulation is directed to develop, in cooperation with county clerks, auto dealers, and the ***Department of*** Revenue[~~ Cabinet~~], and Departments of Insurance and State Police, the forms required to record all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The Department of Vehicle Regulation shall make every effort to minimize and reduce the amount of paperwork required to apply for, or transfer, a vehicle title. When possible, the title document itself shall be used as the primary form used to effect a transfer of vehicle ownership. When no in-state title exists, then forms shall be designed by the department that require only the appropriate and essential information to effect the application for title. The department shall constantly review the information needs of government agencies and other organizations with the goal of reducing, or eliminating, unnecessary documentation. Information being sought for application for title relevant to, but not limited to, vehicle identification, owner, buyer, usage tax, county clerk or inspector shall be set forth by the cabinet in such a way as to promote flexibility in reaching this goal, except that an applicant for a motor vehicle title shall not be required to provide his or her social security number as part of the application process. The use of an electronic medium shall be employed so that forms can be printed by the automated system. Existing statutory language in this chapter and KRS Chapter 186 pertaining to application, signature, forms, or application transfer record may be construed to be electronic in nature at the discretion of the cabinet as provided for by administrative regulation. Any person who knowingly enters, or attests to the entry of, false or erroneous information in pursuit of a certificate of title shall be guilty of forgery in the second degree.

Section 610. KRS 186A.285 is amended to read as follows:

(1) No person shall, without prior specific written approval of the commissioner of the Department of Vehicle Regulation and the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~], connect with the automated vehicle registration and titling system, directly or indirectly, by wire, electronic, electromagnetic induction, systemic, or any other means, any device, system or apparatus capable of putting information or electronic signals into, or receiving information or electronic signals from, or blocking, diverting, or altering transmission of data or signals within, the automated vehicle registration and titling system, its components, and its communications network.

(2) This section does not apply to or prohibit connection of devices or systems to the automated vehicle registration and titling system by persons who are acting in accordance with a contract or agreement with the Commonwealth of Kentucky, which in addition to any other required approval, has been approved in writing by the commissioner of the Department of Vehicle Regulation and the ***executive director of the Commonwealth Office of Technology***[~~chief information officer~~].

Section 611. KRS 186A.290 is amended to read as follows:

(1) Regardless of other provisions of the statutes, the county clerk may omit sending duplicates of each certificate of title and registration, or certificate of registration he issues, to the Transportation Cabinet and ***Department of*** Revenue[~~ Cabinet~~], and the property valuation administrator, and may omit the production and filing of one of the copies formerly known as either county clerk's alpha or his numeric copy, when it is determined by the agencies indicated that their need for "duplicates" of each certificate or "receipt" is obviated by the automated system.

(2) The Department of Vehicle Regulation and the ***Department of*** Revenue[~~ Cabinet~~] shall, as agreed between them, provide appropriate system support or computerized listings on magnetic tape or disc, printouts, or system access, to fulfill the information needs formerly requiring duplicates of each certificate or receipt.

Section 612. KRS 186A.295 is amended to read as follows:

(1) (a) Any person or entity having a motor vehicle or trailer that has been destroyed, to the extent that its repair cannot be obtained through usual commercial repair services, at a cost less than its retail value as established from a value manual approved by the ***Department of*** Revenue[~~ Cabinet~~], or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by the manufacturer have been removed, or which he removes, shall surrender the certificate of title for such vehicle for which he has a certificate of title in his or another name, to

the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for canceling the title.

(b) Any person or entity engaged in the sale of used motor vehicle or trailer parts, or the recycling or salvage of them, shall surrender the certificate of title for any vehicle in his possession, and for which he has a certificate of title, whether in his or another name, if such vehicle is destroyed within the meaning of paragraph (a) of this subsection, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by a manufacturer have been removed, or which he removes, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for canceling the title.

(c) The surrender of the certificate of title pursuant to this section shall be made within ten (10) working days, next succeeding the day when such vehicle was received, destroyed, or next succeeding the day during which such second part was removed.

(2) Each county clerk shall receive without charge, a certificate surrendered in accordance with this section, cancel it, and remit it to the Department of Vehicle Regulation, and take any other action related to it, as required by the Department of Vehicle Regulation.

Section 613. KRS 190.040 is amended to read as follows:

(1) A license may be denied, suspended, or revoked on the following grounds:

(a) Proof of financial or moral unfitness of applicant;

(b) Material misstatement in application for license;

(c) Filing a materially false or fraudulent tax return as certified by the ***Department of*** Revenue[~~ Cabinet~~];

(d) Willful failure to comply with any provision of this chapter or any administrative regulation promulgated under this chapter;

(e) Willfully defrauding any retail buyer to the buyer's damage;

(f) Willful failure to perform any written agreement with any buyer;

(g) Failure or refusal to furnish and keep in force any bond required;

(h) Having made a fraudulent sale, transaction, or repossession;

(i) False or misleading advertising;

(j) Fraudulent misrepresentation, circumvention, or concealment through subterfuge or device of any of the material particulars or the nature of them required to be stated or furnished to the retail buyer;

(k) Employment of fraudulent devices, methods, or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of goods;

(l) Having violated any law relating to the sale, distribution, or financing of motor vehicles;

(m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of the motor vehicle manufacturer or factory branch, who has induced, coerced, or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle, vehicles, parts, accessories, or any other commodities that shall not have been ordered by the dealer;

(n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has attempted to induce or coerce, or has induced or coerced, any automobile dealer to enter into any agreement with a manufacturer, factory branch, or representative, or to do any other act unfair to the dealer, by threatening to cancel any franchise existing between a manufacturer, factory branch, or representative and the dealer;

(o) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of the dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;

(p) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, or wholesaler who makes, attempts to make, or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. This section shall not prevent any manufacturer from offering discounts or rebates on any motor vehicle to any of its employees; or

(q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch, or distributor authorizing the sale of the new motor vehicle being advertised.

(2) The licensor may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for denial. Upon request by the applicant whose license has been denied, the licensor shall set the time and place of hearing a review of denial, to be conducted in accordance with KRS Chapter 13B.

(3) A license shall not be suspended or revoked except after a hearing conducted in accordance with KRS Chapter 13B.

(4) The commission may inspect the pertinent books, letters, records, and contracts of a licensee.

(5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if the licensee approved of or had knowledge of the acts and after approval or knowledge retained the benefit, proceeds, profits, or advantages accruing from the acts.

(6) Any licensee or other person in interest who is dissatisfied with a final order of the commission may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS Chapter 13B.

Section 614. KRS 194B.102 is amended to read as follows:

(1) There is hereby created the "Statewide Strategic Planning Committee for Children in Placement" which is administratively attached to the Department for Community Based Services. The committee shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the secretary of the Cabinet for Families and Children or the secretary's designee, the commissioner of the Department for Public Health, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner for the Department for Medicaid Services, the commissioner of the Department for Community Based Services, the commissioner of the Department of Juvenile Justice, the commissioner of the Department of Education, the executive director of the Administrative Office of the Courts, or their designees; and

(b) One (1) foster parent selected by the statewide organization for foster parents, one (1) District Judge selected by the Chief Justice of the Kentucky Supreme Court, one (1) parent of a child in placement at the time of appointment to be selected by the secretary of the Cabinet for Families and Children, one (1) youth in placement at the time of the appointment to be selected by the secretary of the Cabinet for Families and Children, and one (1) private child care provider selected by the statewide organization for private child care providers. These members shall serve a term of two (2) years, and may be reappointed.

(2) The Statewide Strategic Planning Committee for Children in Placement shall, by July 1, 1999, develop a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. The plan shall be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislative Research Commission on or before July 1, 1999, and each July 1 thereafter.

(3) The strategic plan shall, at a minimum, include:

(a) A mission statement;

(b) Measurable goals;

(c) Principles;

(d) Strategies and objectives; and

(e) Benchmarks.

(4) The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. Strategic plan updates shall include data and statistical information comparing plan benchmarks to actual services and care provided.

(5) The Statewide Strategic Planning Committee for Children in Placement shall, in consultation with the commissioner and the statewide placement coordinator as provided for in KRS 199.801, establish a statewide facilities and services plan that identifies the location of existing facilities and services for children in placement, identifies unmet needs, and develops strategies to meet the needs. The planning horizon shall be five (5) years. The plan shall be updated on an annual basis. The plan shall be used to guide, direct, and, if necessary, restrict the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of placement alternatives.

(6) The Statewide Strategic Planning Committee for Children in Placement may, through the promulgation of administrative regulations, establish a process that results in the review and approval or denial of the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of any facilities and services for children in placement in accordance with the statewide facilities and services plan. Any process established shall include adequate due process rights for individuals and entities seeking to develop new services, construct new facilities, or expand existing facilities, and shall require the involvement of local communities and other resource providers in those communities.

(7) As a part of the statewide strategic plan, and in consultation with the ***Commonwealth Office of***[~~Governor's Office for~~] Technology, the Statewide Strategic Planning Committee for Children in Placement shall plan for the development or integration of information systems that will allow information to be shared across agencies and entities, so that relevant data will follow a child through the system regardless of the entity or agency that is responsible for the child. The data produced shall be used to establish and monitor the benchmarks required by subsection (3) of this section. The data system shall, at a minimum, produce the following information on a monthly basis:

(a) Number of placements per child;

(b) Reasons for placement disruptions;
(c) Length of time between removal and establishment of permanency;
(d) Reabuse or reoffense rates;
(e) Fatality rates;
(f) Injury and hospitalization rates;
(g) Health care provision rates;
(h) Educational achievement rates;
(i) Multiple placement rates;
(j) Sibling placement rates;
(k) Ethnicity matching rates;
(l) Family maintenance and preservation rate; and
(m) Adoption disruption rates.

(8) The Statewide Strategic Planning Committee for Children in Placement shall publish an annual report no later than December 1 of each year that includes, but is not limited to, the information outlined in subsection (7) of this section.

Section 615. KRS 197.120 is amended to read as follows:

(1) The Department of Corrections may enter into contracts with any other state agency for the use and employment of prisoners who may be eligible for the assignments. The contracts shall specifically set forth the compensation to be paid to the Department of Corrections for the use and employment of the prisoners, for the payment of the expenses of transporting, guarding, housing, disciplining, and maintaining the prisoners while so employed. The amount to be paid shall be certified by the contracting parties to the Finance and Administration Cabinet at the end of each month and shall be charged to the appropriation of the agency liable for the payment thereof and credited to the budget of the department to be disbursed and expended as it directs. Any contract may provide for a fixed per diem compensation to be paid to the department for each day's work performed by the prisoner and the department shall pay, out of the per diem compensation, the expenses of transporting, guarding, disciplining, housing, and maintaining prisoners as may be provided in the contracts.

(2) The Department of Corrections shall not enter into any contract with the ***Department of*** Revenue~~[Cabinet]~~ for the use or employment of prisoners in any capacity that allows prisoners access to taxpayer information, including, but not limited to, tax returns, informational reporting returns, social security numbers, telephone numbers, or addresses.

Section 616. KRS 197.210 is amended to read as follows:

(1) (a) On and after June 17, 1954, all offices, departments, institutions, agencies, and all political subdivisions which are supported in whole or in part by the Commonwealth shall purchase, when economically feasible, from the department all articles or products required which are produced or manufactured by prison labor, as provided by KRS 197.200 to 197.250. No article or product shall be purchased by any office, department, institution, or agency, from any source except as specified in this subsection.

(b) Exceptions may be made in any case where, in the opinion of the Finance and Administration Cabinet, the articles or products produced or manufactured do not meet the reasonable requirements of the offices, departments, institutions, agencies, or where the requisition cannot be reasonably complied with because of an insufficient supply of the articles or products required. However, no office, department, institution, or agency shall be allowed to evade the intent and meaning of KRS 197.200 to 197.250 by slight variations from standards adopted by the ***Office***~~[Division]~~ of Material and Procurement Services ***within the Office of the Controller***, when the articles or products produced or manufactured by the department in accordance with the standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

(2) All purchases under KRS 197.200 to 197.250 shall be made through the Finance and Administration Cabinet upon requisition by the proper authority of the office, department, institution, agency, or political subdivision of the Commonwealth.

Section 617. KRS 198A.030 is amended to read as follows:

(1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the Kentucky Housing Corporation.

(2) The Kentucky Housing Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.

(3) The corporation shall be governed by a board of directors, consisting of ***thirteen (13)***~~[fourteen (14)]~~ members, ***five (5)***~~[six (6)]~~ of whom shall be the Lieutenant Governor, the secretary of the Finance and Administration Cabinet, the commissioner of the Department for Local Government,~~[the secretary of the Revenue Cabinet,]~~ the Attorney General, and the secretary of the Cabinet for Economic Development, or their duly appointed designees, as public directors, and eight (8) private directors who shall be appointed by the Governor, subject to confirmation by the Senate as provided by KRS 11.160, as

follows:

(a) One (1) private director representing the interests of financial lending institutions located within the Commonwealth;

(b) One (1) private director representing the interests of the manufactured housing industry within the Commonwealth;

(c) One (1) private director representing the interests of real estate practitioners licensed by the Kentucky Real Estate Commission;

(d) One (1) private director representing the interests of the homeless population within the Commonwealth;

(e) One (1) private director representing the interests of local government;

(f) One (1) private director representing the interests of the home construction industry in the Commonwealth;

(g) One (1) private director representing the interests of consumers in the Commonwealth; and

(h) One (1) private director representing the interests of the Kentucky State Building Trades Council.

(4) Private directors appointed by the Governor may include previous members of the board, and members may be reappointed for successive terms. All appointments shall be for four (4) years, and the appointees shall serve until a qualified successor is appointed.

(5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold office during the remainder of the term. A vacancy shall be filled in accordance with the requirement and procedures for appointments.

(6) The Governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for the vacancy as provided in this section.

(7) The Governor shall designate a director of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a director of the corporation or a date six (6) months after the expiration of the then current term of the Governor designating the chairman.

(8) The board of directors shall annually elect one (1) of its members as vice chairman. The board of directors shall also elect or appoint, and prescribe the duties of, other officers the board of directors deems necessary or advisable, including an executive director and a secretary, and the board of directors shall fix the compensation of the officers.

(9) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that copies are true copies, and all persons dealing with the corporation may rely upon the certificates.

(10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. A majority shall be determined by excluding any existing vacancies from the total number of directors.

(11) Action shall be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum shall exist called upon three (3) days' written notice to each director or upon the concurrence of at least eight (8) directors.

(12) Each private director shall be entitled to a fee of one hundred dollars ($100) for attendance at each meeting of the board of directors or duly called committee meeting of the board.

Section 618. KRS 205.769 is amended to read as follows:

(1) In cases deemed appropriate pursuant to established guidelines, the cabinet shall refer for federal income tax refund offset and state income tax refund offset verified amounts which are owed for overdue child support and maintenance amounts that are included in the same support order as child support. The cabinet shall refer for federal income tax refund offset and state income tax refund offset verified amounts which are owed for medical support, when the medical support arrearage accrued is based on a medical support order for a specified dollar amount.

(2) In nonpublic assistance cases, the custodial parent shall be notified in advance if any offset amount will be first used to satisfy any unreimbursed public assistance payments which have been provided to the family.

(3) Written notice in advance shall be provided the obligor of the referral for state income tax refund offset, together with the opportunity to contest the referral pursuant to procedures which are in compliance with the state's procedural due process requirements.

(4) If the offset amount is found to be in error or to exceed the amount of overdue support, the cabinet shall promptly refund the excess amount pursuant to established procedures.

(5) The cabinet may charge a reasonable fee to cover the cost of collecting overdue support using the state tax refund offset.

(6) The ***Department of*** Revenue~~[Cabinet]~~ shall notify the cabinet of the parent's home address and Social Security number or numbers. The cabinet shall provide this information to any other state involved in enforcing the support order.

(7) The cabinet has the unfettered right to intercept federal income tax refunds and state income tax refunds, pursuant to 45 C.F.R. 303.72 and KRS 131.560 to 131.595, to satisfy all child support, maintenance, and medical support arrearages due the cabinet or its assignee.

Section 619. KRS 205.7695 is amended to read as follows:

The Cabinet for Families and Children and the ***Department of*** Revenue[~~ Cabinet~~] shall work together to develop a system of information sharing for the effective and efficient collection of child support payments. Any requirement included in KRS Chapter 131, 205, 403, or 405 or any other law for either ***the*** cabinet ***or the department*** for the confidentiality of individual personal and financial records shall not be violated in the process of this coordination.

Section 620. KRS 205.778 is amended to read as follows:

(1) When the cabinet determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a noncustodial parent who owes past-due support, a lien or levy shall, subject to the provision of subsection (3) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained. The cabinet shall provide a notice of the match, the lien or levy arising therefrom, and the action to be taken to block or encumber the account with the lien or levy for child support payment to the individual identified and the financial institution holding the account. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account based on a match until it is served with a notice of lien or order to withhold and deliver.

(2) The cabinet shall provide notice to the individual subject to a child support lien or levy on assets in an account held by a financial institution by sending them a notice of the lien or levy to withhold and deliver within two (2) business days of the date that notice is sent to the financial institution.

(3) A financial institution ordered to block or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is blocked or encumbered.

(4) Any levy issued on an identified account by the Cabinet for Families and Children for past-due child support shall have first priority over any other lien or levy issued by the ***Department of*** Revenue[~~ Cabinet~~] or any other agency, corporation, or association.

Section 621. KRS 209.160 is amended to read as follows:

There is hereby created a trust and agency account in the State Treasury to be known as the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars ($10) from each twenty-four dollars ($24) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the ***Department of*** Revenue[~~ Cabinet~~]. The Cabinet for Families and Children shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.

Section 622. KRS 211.390 is amended to read as follows:

(1) "Fluidized bed energy production facility" shall mean a fluidized bed combustion unit, installed in a plant facility located in this state, which is fueled by Kentucky coal and which employs fluidized bed combustion technology, installed on or after August 1, 1986, to burn said coal for the purpose of producing thermal, mechanical or electrical energy. The energy produced through the employment of the fluidized bed combustion technology must constitute the major energy source for the primary operations of the plant facility.

(2) "Fluidized bed combustion technology tax exemption certificate" shall mean that certificate issued by the ***Department of*** Revenue[~~ Cabinet~~] pursuant to KRS 211.392.

Section 623. KRS 211.392 is amended to read as follows:

(1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the ***Department of*** Revenue[~~ Cabinet~~] in the manner and form prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and shall contain plans and specifications of the fluidized bed combustion unit including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the ***Department of*** Revenue[~~ Cabinet~~] for the proper administration of this section. If the ***Department of*** Revenue[~~ Cabinet~~] finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before the denial, revocation, or modification of a fluidized bed combustion technology tax exemption certificate, the ***Department of*** Revenue[~~ Cabinet~~] shall give the applicant written notice and shall afford the applicant an opportunity for a conference. The conference shall take place within sixty (60) days following notification. The ***Department of*** Revenue[~~ Cabinet~~] shall on its own initiative revoke the certificate when any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or

(c) The fluidized combustion unit to which the certificate relates has ceased to be the major energy source for the primary operations of the plant facility.

(3) If the circumstances so require, the ***Department of*** Revenue[~~ Cabinet~~], in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the ***Department of*** Revenue[~~ Cabinet~~] revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant. Notice of an order of the ***Department of*** Revenue[~~ Cabinet~~] denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder.

(6) The applicant or holder of the certificate aggrieved by the refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the ***Department of*** Revenue[~~ Cabinet~~] to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the ***Department of*** Revenue[~~ Cabinet~~].

(8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the ***Department of*** Revenue[~~ Cabinet~~].

(9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt the facilities from taxes outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 624. KRS 218A.202 is amended to read as follows:

(1) The Cabinet for Health Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy.

(2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.

(3) Every dispenser within the Commonwealth or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy shall report to the Cabinet for Health Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:

  (a) A drug administered directly to a patient; or

  (b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.

(4) Data for each controlled substance that is dispensed shall include but not be limited to the following:

  (a) Patient identifier;

  (b) Drug dispensed;

  (c) Date of dispensing;

  (d) Quantity dispensed;

  (e) Prescriber; and

  (f) Dispenser.

(5) The data shall be provided in the electronic format specified by the Cabinet for Health Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.

(6) The Cabinet for Health Services shall be authorized to provide data to:

  (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

  (b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

(c) A state-operated Medicaid program;

(d) A properly convened grand jury pursuant to a subpoena properly issued for the records;

(e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;

(f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:

1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing practices;

2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or

3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or

(g) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.

(7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care physician.

(8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction, except that:

(a) A peace officer specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with other peace officers specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and

(b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in paragraph (a) of subsection (6) of this section, or with a law enforcement officer designated in paragraph (b) of subsection (6) of this section; and

(c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(9) The Cabinet for Health Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(11) Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.

(12) Knowing disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony.

(13) The ***Commonwealth Office of***~~[Governor's Office for]~~ Technology, in consultation with the Cabinet for Health Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:

(a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and

(b) Study the use of an interactive system that includes a relational data base with query capability.

(14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.

(15) The Cabinet for Health Services may limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.

(16) (a) The Cabinet for Health Services shall work with each board responsible for the licensure, regulation, or discipline

of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(c) The cabinet shall work with the Justice Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

Section 625. KRS 224.01-310 is amended to read as follows:

(1) Application for a pollution control tax exemption certificate shall be filed with the ***Department of*** Revenue[~~ Cabinet~~] in such manner and in such form as may be prescribed by regulations issued by the ***Department of*** Revenue[~~ Cabinet~~] and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of air, noise, waste or water pollution control and any additional information deemed necessary by the ***Department of*** Revenue[~~ Cabinet~~] for the proper administration of Acts 1974, Chapter 137. The cabinet shall provide technical assistance and factual information as requested in writing by the ***Department of*** Revenue[~~ Cabinet~~]. If the ***Department of*** Revenue[~~ Cabinet~~] finds that the facility qualifies as a pollution control facility as defined in KRS 224.01-300(1), it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of the making of the application for such certificate.

(2) Before issuing a pollution control tax exemption certificate, the ***Department of*** Revenue[~~ Cabinet~~] shall give notice in writing by mail to the secretary of the cabinet, and shall afford to the applicant and to the secretary of the cabinet an opportunity for a hearing. On like notice and opportunity for a hearing, the ***Department of*** Revenue[~~ Cabinet~~] shall on its own initiative revoke such certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the pollution control facilities;

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.

(3) Provided, however, that where the circumstances so require, the ***Department of*** Revenue[~~ Cabinet~~] in lieu of revoking such certificate may modify the same.

(4) On the mailing of notice of the action of the ***Department of*** Revenue[~~ Cabinet~~] revoking or modifying a certificate as provided in subsection (5) of this section, such certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A pollution control tax exemption certificate, when issued, shall be sent by certified mail to the applicant and notice of such issuance in the form of certified copies thereof shall be sent to the secretary of the cabinet. Notice of an order of the ***Department of*** Revenue[~~ Cabinet~~] denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder thereof and shall be sent to the secretary of the cabinet. The applicant or holder and the secretary of the cabinet are deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax exemption certificate may appeal from the final ruling of the ***Department of*** Revenue[~~ Cabinet~~] to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a pollution control facility, not involving a different location or use, the holder of a pollution control tax exemption certificate for such facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on such facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the facility or the date of transfer of the certificate, whichever is earlier. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the cabinet and to the ***Department of*** Revenue[~~ Cabinet~~].

(8) In the event a pollution control facility for which an exemption certificate is held ceases to be used for the primary purpose of pollution control or is used for a different purpose than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the cabinet and to the ***Department of*** Revenue[~~ Cabinet~~].

Section 626. KRS 224.50-868 is amended to read as follows:

(1) Until July 31, 2006, a person purchasing a new motor vehicle tire in Kentucky shall pay to the retailer a one dollar ($1) fee at the time of the purchase of that tire. A new tire is a tire that has never been placed on a motor vehicle wheel rim, but it is not a tire placed on a motor vehicle prior to its original retail sale or a recapped tire. The term "motor vehicle" as used in

this section shall mean "motor vehicle" as defined in KRS 138.450. The fee shall not be subject to the Kentucky sales tax.

(2) When a person purchases a new motor vehicle tire in Kentucky to replace another tire, the tire that is replaced becomes a waste tire subject to the waste tire program. The person purchasing the new motor vehicle tire shall either offer the retailer that waste tire or meet the following requirements:

(a) Dispose of the waste tire in accordance with KRS 224.50-856(1);

(b) Deliver the waste tire to a person registered in accordance with the waste tire program; or

(c) Reuse the waste tire for its original intended purpose or an agricultural purpose.

(3) A retailer shall report to the ***Department of*** Revenue[~~ Cabinet~~] on or before the twentieth day of each month the number of new motor vehicle tires sold during the preceding month and the number of waste tires received from customers that month. The report shall be filed on forms and contain information as the ***Department of*** Revenue[~~ Cabinet~~] may require. The retailer shall remit with the report ninety-five percent (95%) of the fees collected for the preceding month and may retain a five percent (5%) handling fee.

(4) A retailer shall:

(a) Accept from the purchaser of a new tire, if offered, for each new motor vehicle tire sold, a waste tire of similar size and type; and

(b) Post notice at the place where retail sales are made that state law requires the retailer to accept, if offered, a waste tire for each new motor vehicle tire sold and that a person purchasing a new motor vehicle tire to replace another tire shall comply with subsection (2) of this section. The notice shall also include the following wording: "State law requires a new tire buyer to pay one dollar ($1) for each new tire purchased. The money is collected and used by the state to oversee the management of waste tires, including cleaning up abandoned waste tire piles and preventing illegal dumping of waste tires."

(5) A retailer shall comply with the requirements of the recordkeeping system for waste tires established by KRS 224.50-874.

(6) A retailer shall transfer waste tires only to a person who presents a letter from the cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid waste disposal facility permit issued by the cabinet, unless the retailer is delivering the waste tires to a destination outside Kentucky and the waste tires will remain in the retailer's possession until they reach that destination.

Section 627. KRS 224.50-870 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall transfer monthly fees collected pursuant to KRS 224.50-868 to the State Treasury, for deposit into the waste tire trust fund established by KRS 224.50-880. All assessment and collection powers conveyed to the ***Department of*** Revenue[~~ Cabinet~~] for the assessment and collection of taxes shall apply to the assessment and collection of the fees. The ***Department of*** Revenue[~~ Cabinet~~] shall be reimbursed from the waste tire trust fund for its costs incurred in assessing and collecting the fees, with the reimbursement not to exceed fifty thousand dollars ($50,000) per year.

Section 628. KRS 224.50-880 is amended to read as follows:

(1) A waste tire trust fund is established in the state treasury. The fund shall be used by the cabinet for the following purposes:

(a) Properly managing waste tires;

(b) Paying the cabinet's costs in implementing the waste tire program to include costs associated with any waste tire amnesty program established by the cabinet that permits waste tires to be turned in without incurring fees, charges, or penalties;

(c) Paying the ***Department of Revenue's***[~~Revenue Cabinet's~~] costs of assessing and collecting the fee established by KRS 224.50-868;

(d) Entering into the agreements described in KRS 224.50-876; and

(e) Awarding the grants described in KRS 224.50-878.

(2) All interest earned on money in the fund shall be credited to the fund.

(3) Money unexpended at the end of a fiscal year shall not lapse to the general fund.

(4) Any money remaining in the waste tire trust fund established by KRS 224.50-820 shall be transferred to the fund established by this section.

Section 629. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the ***Department of*** Revenue[~~ Cabinet~~] at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at one and four-tenths cent ($0.014) for each gallon. Four-tenths of a cent ($0.004) per gallon shall be deposited in the financial responsibility account and one cent ($0.01) shall be deposited in the petroleum storage tank account.

(5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.

(6) All provisions of law related to the ***Department of Revenue's***[~~Revenue Cabinet's~~] administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the ***Department of*** Revenue[~~ Cabinet~~] by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The ***Department of*** Revenue[~~ Cabinet~~] shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

(8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606, 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142, and this section to the contrary, the small operator assistance account and small operator tank removal account established under KRS 224.60-130 shall continue in effect until July 15, 2008, and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

Section 630. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct horse racing at a horse race meeting within the Commonwealth of Kentucky or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year shall first apply to the authority for a license to do so. The application shall be filed at the authority's general office on or before October 1 of the preceding year with respect to applications to conduct live horse race meetings, and with respect to intertrack wagering dates, and on forms prescribed by the authority. The application shall include the following information:

(a) The full name and address of the person making application;

(b) The location of the place, track, or enclosure where the applicant proposes to conduct horse racing meetings;

(c) The dates on which the applicant intends to conduct horse racing, which shall be successive days unless authorized by the authority;

(d) The proposed hours of each racing day and the number of races to be conducted;

(e) The names and addresses of all principals associated with the applicant or licensee;

(f) The type of organizational structure under which the applicant operates, i.e., partnership, trust, association, limited liability company, or corporation, and the address of the principal place of business of the organization;

(g) Any criminal activities in any jurisdiction for which any individual listed under paragraphs (a) and (e) has been arrested or indicted and the disposition of the charges, and any current or on-going criminal investigation of which any of these individuals is the subject; and

(h) Any other information that the authority by administrative regulation deems relevant and necessary to determine the fitness of the applicant to receive a license, including fingerprints of any individual listed under paragraphs (a) and (e), if necessary for proper identification of the individual or a determination of suitability to be associated with a licensed racing association.

(2) An application for license shall be accompanied by the following documents:

(a) For a new license applicant, a financial statement prepared and attested to by a certified public accountant in accordance with generally accepted accounting principles, showing the following:

1. The net worth of the applicant;

2. Any debts or financial obligations owed by the applicant and the persons to whom owed; and

3. The proposed or current financing structure for the operation and the sources of financing.

(b) For a license renewal applicant, an audited financial statement for the prior year;

(c) A copy of the applicant's federal and state tax return for the previous year. Tax returns submitted in accordance with this provision shall be treated as confidential;

(d) A statement from the ***Department of*** Revenue[~~ Cabinet~~] that there are no delinquent taxes or other financial obligations owed by the applicant to the state or any of its agencies or departments;

(e) A statement from the county treasurer of the county in which the applicant conducts or proposes to conduct horse racing meetings that there are no delinquent real or personal property taxes owed by the applicant.

(3) The completed application shall be signed by the applicant or the chief executive officer if the applicant is an organization, sworn under oath that the information is true, accurate, and complete, and the application shall be notarized.

(4) If there is any change in any information submitted in the application process, the applicant or licensee shall notify the authority within thirty (30) days of the change.

(5) The authority shall as soon as practicable, but in no event later than November 1 in any calendar year, award dates for racing in the Commonwealth during the next year. In awarding dates, the authority shall consider and seek to preserve each track's usual and customary dates, as these dates are requested. If dates other than the usual and customary dates are requested, the applicant shall include a statement in its application setting forth the reasons the requested dates are sought. Dates for the conduct of intertrack wagering shall be awarded as provided in KRS 230.377. In the event scheduled racing is canceled by reason of flood, fire, inclement weather, or other natural disaster or emergency, the authority may award after November 1 additional racing dates to make up for those dates canceled.

(6) The authority may issue a license to conduct a horse race meeting to any association making the aforesaid application if the applicant meets the requirements established in KRS 138.530 and other applicable provisions of this chapter, and if the authority finds that the proposed conduct of racing by the association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth.

(7) As a condition precedent to the issuance of a license, the authority may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(8) Every license issued under this chapter shall specify among other things the name of the person to whom issued, the address and location of the track where the horse race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track that is granted overlapping dates for the conduct of a live race meeting with another horse racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

(9) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a horse race meeting at any track not specified therein. However, if the track specified becomes unsuitable for racing because of flood, fire, or other catastrophe, the authority may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of the track willingly consents to the use thereof.

(10) Horse racing dates may be awarded and licenses issued authorizing horse racing on any day of the year. Horse racing shall be held or conducted only between sunrise and midnight.

(11) The authority may at any time require the removal of any official or employee of any association in those instances where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with horse racing or has failed to comply with any condition of his license or has violated any law or any administrative regulation of this authority.

(12) Every horse race not licensed under this section is hereby declared to be a public nuisance and the authority may obtain an injunction against the same in the Circuit Court of the county where the unlicensed race is proposed to take place.

Section 631. KRS 234.310 is amended to read as follows:

As used in KRS 234.310 to 234.440, unless the context requires otherwise:

(1) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(2) "Person" includes every natural person, fiduciary, association, state, or political subdivision, or corporation. Whenever used in any clause prescribing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof;

(3) "Liquefied petroleum gas motor fuel" means and includes all combustible gases and liquids as described in KRS 234.100 used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Public highways" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction;

(6) "Liquefied petroleum gas motor fuel dealer" means any person who imports or causes to be imported into this state for resale or use, or any person making sales in this state, of liquefied petroleum gas motor fuel for resale or use in this state by a licensed liquefied petroleum gas motor fuel user-seller;

(7) "Liquefied petroleum gas motor fuel user-seller" means any person, not licensed as a liquefied petroleum gas motor fuel

dealer, who dispenses liquefied petroleum gas motor fuel into the fuel tanks of, or attached to, motor vehicles for the propulsion of such motor vehicles on the public highways, and shall include any such person who so dispenses liquefied petroleum gas motor fuel for consumption in such motor vehicles owned, leased, or operated by him.

Section 632. KRS 234.320 is amended to read as follows:

(1) An excise tax at the rate levied in KRS 138.220(1) and (2) is hereby levied and shall be paid by the liquefied petroleum gas motor fuel dealer to the ***department***~~[cabinet]~~ on all taxable liquefied petroleum gas motor fuel delivered to the licensed liquefied petroleum gas motor fuel user-seller or withdrawn by the liquefied petroleum gas motor fuel dealer to propel motor vehicles on the public highways, either within or without this state. An allowance of one percent (1%) of the tax shall be made to the liquefied petroleum gas motor fuel dealer to cover unaccountable losses, bad debts, and handling and reporting the tax.

(2) No other excise or license tax shall be levied or assessed on liquefied petroleum gas motor fuel by any political subdivision of the state, except the licenses under KRS 234.120.

(3) No provision of KRS 234.310 to 234.440 shall in any way affect the surtax imposed on heavy equipment motor carriers under KRS 138.660.

Section 633. KRS 234.330 is amended to read as follows:

(1) A license shall be required of each liquefied petroleum gas motor fuel dealer.

(2) Application for a license shall be made to the ***department***~~[cabinet]~~ upon forms prepared and furnished by the ***department***~~[cabinet]~~. The application shall contain such information as the ***department***~~[cabinet]~~ deems necessary.

(3) Concurrently with the filing of an application for a license, a liquefied petroleum gas motor fuel dealer shall file with the ***department***~~[cabinet]~~ a bond as required under KRS 234.340. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 234.340 to secure payment of taxes, penalties and interest imposed by KRS 234.310 to 234.440.

(4) The application in proper form having been accepted for filing, the bond, if required, having been accepted and approved and the other conditions and requirements of this section having been complied with, the ***department***~~[cabinet]~~ shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the ***department***~~[cabinet]~~, or if the ***department***~~[cabinet]~~ is of the opinion that the person who makes the application as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not for sufficient cause, the ***department***~~[cabinet]~~ may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The ***department***~~[cabinet]~~ shall keep and file all applications and bonds, with an alphabetical index thereof.

Section 634. KRS 234.340 is amended to read as follows:

(1) Every liquefied petroleum gas motor fuel dealer shall file with the ***department***~~[cabinet]~~ a corporate bond, cash bond, or securities approved by the ***department***~~[cabinet]~~ in a minimum amount of five hundred dollars ($500) and in a maximum amount of four (4) months' liability for taxes imposed under KRS 234.310 to 234.440 but not to exceed fifty thousand dollars ($50,000). If, however, a liquefied petroleum gas motor fuel dealer is bonded as provided in KRS 138.330 the ***department***~~[cabinet]~~ may waive the bonding requirement in this section provided a rider is attached to the bond to guarantee payment of all liquefied petroleum gas motor fuel taxes together with all penalties and interest thereon and secure faithful compliance with the provisions of KRS 234.310 to 234.440. The applicant for a license shall be the principal obligor and this state shall be the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the licensee to the ***department***~~[cabinet]~~ of all taxes levied under KRS 234.310 to 234.440, together with all penalties and interest thereon and generally upon faithful compliance with the provisions of KRS 234.310 to 234.440.

(2) If the liability upon the bond is discharged or reduced, whether by judgment rendered, payment made, or otherwise or if in the opinion of the ***department***~~[cabinet]~~ any surety has become unsatisfactory or unacceptable, the ***department***~~[cabinet]~~ may require the licensee to file a new bond with satisfactory surety in the same form and amount, failing which the ***department***~~[cabinet]~~ shall cancel the license in accordance with the provisions of this section. If a new bond is furnished by the licensee as above provided, the ***department***~~[cabinet]~~ shall cancel the bond for which the new bond is substituted.

(3) If upon an informal hearing, of which the licensee shall be given ten (10) days' notice in writing, the ***department***~~[cabinet]~~ decides that the amount of the existing bond is insufficient to insure payment to this state of the amount of the tax, penalties, and interest for which the licensee is or may become liable, the licensee shall, upon the written demand of the ***department***~~[cabinet]~~, file an additional bond in the same manner and form with surety thereon approved by the ***department***~~[cabinet]~~, in any amount determined by the ***department***~~[cabinet]~~ to be necessary, failing which the ***department***~~[cabinet]~~ shall cancel the license in accordance with the provisions of this section.

(4) Any surety on a bond furnished by a licensee shall be released from all liability to this state accruing on the bond after the expiration of sixty (60) days from the date upon which the surety has lodged with the ***department***[~~cabinet~~] a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The ***department***[~~cabinet~~] shall, promptly on the receipt of the request, notify the licensee who furnished the bond, and unless the licensee shall, before the expiration of the sixty (60) day period, file with the ***department***[~~cabinet~~] a new bond with surety satisfactory to the ***department***[~~cabinet~~] in the amount and form prescribed in this section, the ***department***[~~cabinet~~] shall cancel the license in accordance with the provisions of this section. If the new bond is furnished by the licensee as above provided, the ***department***[~~cabinet~~] shall cancel the bond for which the new bond is substituted.

Section 635. KRS 234.350 is amended to read as follows:

(1) If a licensee at any time files a false monthly report of the information required, or fails or refuses to file the monthly report or to pay the full amount of the tax or violates any other provision of KRS 234.310 to 234.440, without a showing that the failure was due to reasonable cause, the ***department***[~~cabinet~~] may cancel the license and suspend the privilege of acting as a liquefied petroleum gas motor fuel dealer.

(2) Upon voluntary surrender of the license or upon receipt of a written request by a licensee, the ***department***[~~cabinet~~] may cancel his license, effective sixty (60) days from the date of request, but no license shall be canceled upon surrender or request unless the licensee has, prior to the date of cancellation, paid to this state all taxes, penalties, interest, and fines that are due or have accrued, and unless the licensee has surrendered to the ***department***[~~cabinet~~] his license.

(3) If upon investigation the ***department***[~~cabinet~~] ascertains that any person to whom a license has been issued is no longer engaged as a liquefied petroleum gas motor fuel dealer or a liquefied petroleum gas motor fuel user-seller, and has not been so engaged for a period of six (6) months, the ***department***[~~cabinet~~] may cancel the license by giving the person sixty (60) days' notice of cancellation, mailed to his last known address in which event the license shall be surrendered to the ***department***[~~cabinet~~].

(4) Whenever a licensee ceases to engage in business within this state, he shall notify the ***department***[~~cabinet~~] in writing within fifteen (15) days after discontinuance. All taxes that have accrued under KRS 234.310 to 234.440, whether or not then due, shall become due and payable concurrently with the discontinuance. The licensee shall make a report and pay all such taxes and any interest and penalties thereon, and shall surrender to the ***department***[~~cabinet~~] his license.

(5) If the ***department***[~~cabinet~~] takes action to cancel a license as provided in this section, the licensee shall be notified by certified or registered letter or summons of the charges against him, and he shall be afforded an opportunity for an informal hearing on the matter. The hearing shall be set at least five (5) days from the date the letter is delivered or the summons is served. Any licensee aggrieved by a decision to cancel his license after the informal hearing may appeal the decision to the Kentucky Board of Tax Appeals where he shall be granted an administrative hearing in accordance with KRS Chapter 13B.

(6) If the license is canceled by the ***department***[~~cabinet~~] as provided in this section, and if the licensee has paid to this state all taxes, interest, and penalties under KRS 234.310 to 234.440, the ***department***[~~cabinet~~] shall cancel the bond filed by the licensee.

Section 636. KRS 234.360 is amended to read as follows:

(1) Every liquefied petroleum gas motor fuel dealer licensee shall maintain complete records of inventories, purchases, sales, use and other dispositions of liquefied petroleum gas. Such records, together with manifests of lading, invoices, correspondence, and other papers pertaining to liquefied petroleum gas motor fuel shall be retained for a minimum of two (2) years, and if requested by the ***department***[~~cabinet~~], shall be made available for examination by the ***department***[~~cabinet~~].

(2) Where storage of liquefied petroleum gas is for multiple uses, and where the number of gallons taxable of liquefied petroleum gas motor fuel is determined by the liquefied petroleum gas motor fuel dealer and/or the liquefied petroleum gas motor fuel user-seller, based on the best estimate possible from mileage and efficiency records available, all mileage and efficiency records of such motor vehicle must be retained for a minimum period of two (2) years, and, if requested by the ***department***[~~cabinet~~], shall be made available for examination by the ***department***[~~cabinet~~].

Section 637. KRS 234.370 is amended to read as follows:

(1) Every liquefied petroleum motor fuel dealer licensee shall file with the ***department***[~~cabinet~~], on forms prescribed by the ***department***[~~cabinet~~], a monthly tax return. The return shall be made under penalty of perjury and shall show such information as the ***department***[~~cabinet~~] may require. The licensee shall file the return on or before the twenty-fifth day of the next succeeding calendar month following the month to which it relates.

(2) The monthly tax return shall be accompanied by remittance covering the tax due.

Section 638. KRS 234.380 is amended to read as follows:

Liquefied petroleum gas motor fuel dealers using, selling, and/or delivering liquefied petroleum gas to motor vehicles, or into storage for use in motor vehicles, shall report and pay the state tax at the rate levied in KRS 138.220(1) and (2) on all such fuel to the ***Department of*** Revenue[~~ Cabinet~~]. The dealer shall issue an invoice to the customer whenever the sale or delivery is consummated giving the invoice date, name and address of the customer, and number of taxable gallons sold or delivered. The number of taxable gallons to be invoiced shall be determined in the following manner by the dealer:

(1) The metered gallons, if placed into a fuel tank of a motor vehicle;

(2) The metered gallons, if placed into storage, all of which is to be used or sold for use in motor vehicles;

(3) The number of gallons to be used in motor vehicles, if the storage is for multiple uses. The number of taxable gallons to be determined by the user and the dealer based on the best estimate possible from mileage and efficiency records available; or

(4) If the motor vehicle carburetor is connected to a fuel line leading from a fuel tank where another, or other motors are supplied with fuel also, then the number of gallons to be invoiced as taxable motor fuel shall be determined from mileage and fuel efficiency records.

Section 639. KRS 234.400 is amended to read as follows:

The ***department***[~~cabinet~~] may audit the books and records of each licensee and make such other investigations as it deems necessary to determine whether or not the tax and other requirements imposed by KRS 234.310 to 234.440 have been met.

Section 640. KRS 234.410 is amended to read as follows:

The reports required by KRS 234.370 shall be accompanied by a certified or cashier's check payable to the State Treasurer, for the amount of tax due for the preceding calendar month computed as provided in KRS 234.380, except that the ***department***[~~cabinet~~] may waive this requirement and accept the check of the licensee if he is of sound financial condition and has established a good record of compliance with the requirements of KRS 234.310 to 234.440.

Section 641. KRS 234.440 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall administer the taxes provided in KRS 234.310 to 234.430 and this section and may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

(2) The ***department***[~~cabinet~~] shall, upon the request of the officials to whom are entrusted the enforcement of the liquefied petroleum gas motor fuel tax law of any other state of the United States or the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the manufacture, receipt, sale, use, transportation, shipment, or delivery by any person of liquefied petroleum gas motor fuel, provided such other state or states provide for the furnishing of like information to this state.

Section 642. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

  (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;

  (b) Patented, patent, and proprietary medicines;

  (c) Toilet, medicinal, and antiseptic preparations and solutions;

  (d) Flavoring extracts and syrups;

  (e) Denatured alcohol or denatured rum;

  (f) Vinegar and preserved sweet cider;

  (g) Wine for sacramental purposes;

  (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and

  (i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.

(3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance

which is under the ownership or control of the licensee by lease holdings or ownership.

(8)[~~ "Cabinet" means the Revenue Cabinet unless the context requires otherwise.~~

~~(9)~~] "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.

(9)[~~(10)~~] "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(10)[~~(11)~~] "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.

(11)[~~(12)~~] "City administrator" means city alcoholic beverage control administrator.

(12)[~~(13)~~] "Commissioner" means the commissioner of alcoholic beverage control.

(13)[~~(14)~~] "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

(14)[~~(15)~~] "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(15)[~~(16)~~] "County administrator" means county alcoholic beverage control administrator.

(16)[~~(17)~~] "Department" means the Department of Alcoholic Beverage Control.

(17)[~~(18)~~] "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

(18)[~~(19)~~] "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(19)[~~(20)~~] "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(20)[~~(21)~~] "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(21)[~~(22)~~] "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.

(22)[~~(23)~~] "Farm winery" means a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, manufacturing and bottling wines in an amount not to exceed twenty-five thousand (25,000) gallons per year.

(23)[~~(24)~~] "Election" means:

(a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or

(b) Any other election not pertaining to alcohol.

(24)[~~(25)~~] "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes.

(25)[~~(26)~~] "License" means any license issued pursuant to KRS 243.020 to 243.670.

(26)[~~(27)~~] "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(27)[~~(28)~~] "Limited restaurant" means a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a territory where prohibition is no longer in effect under KRS 242.185(6).

(28)[~~(29)~~] "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.

(29)[~~(30)~~] "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

(30)[~~(31)~~] "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.

(31)[~~(32)~~] "Minor" means any person who is not twenty-one (21) years of age or older.

(32)[~~(33)~~] "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

(33)[~~(34)~~] "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

(34)[~~(35)~~] "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(35)[~~(36)~~] "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(36)[~~(37)~~] "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its gross receipts from the sale of food.

(37)[~~(38)~~] "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(38)[~~(39)~~] "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

(39)[~~(40)~~] "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

(40)[~~(41)~~] "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(41)[~~(42)~~] "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

(42)[~~(43)~~] ***"Commissioner"***[~~"Secretary"~~] means the ***commissioner***[~~secretary~~] of the Kentucky ***Department of*** Revenue[~~ Cabinet~~].

(43)[~~(44)~~] "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.

(44)[~~(45)~~] "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(45)[~~(46)~~] "Small winery" means a winery producing wines from grapes, other fruit, or honey produced in Kentucky, unless exempt under KRS 243.155(2), in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.

(46)[~~(47)~~] "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.

(47)[~~(48)~~] "State administrator" means the administrator of the Distilled Spirits Unit or the administrator of the Malt Beverage Unit, or both, as the context requires.

(48)[~~(49)~~] "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.

(49)[~~(50)~~] "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

(50)[~~(51)~~] "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(51)[~~(52)~~] "Warehouse" means any place in which alcoholic beverages are housed or stored.

(52)[~~(53)~~] "Wholesale sale" means a sale to any person for the purpose of resale.

(53)[~~(54)~~] "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

(54)[~~(55)~~] "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to

exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

(55)[~~(56)~~] "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded. It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse, or storeroom located within this state.

Section 643. KRS 241.020 is amended to read as follows:

(1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, except that the collection of taxes shall be administered by the ***Department of*** Revenue[~~ Cabinet~~].

(2) A distilled spirits unit, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.

(3) A malt beverage unit, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.

Section 644. KRS 243.180 is amended to read as follows:

(1) A distributor's license shall authorize the licensee to purchase malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the state in which they are located, import a non-United States brand malt beverage from an importer or wholesaler registered with the Kentucky ***Department of*** Revenue[~~ Cabinet~~]; or store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employees for home consumption and also to charitable or fraternal organizations holding group meetings, picnics or outings.

(2) A distributor shall transport malt beverages only by a vehicle owned, rented or leased and operated by himself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of such truck or vehicle holds a wholesaler's license.

(3) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

Section 645. KRS 243.200 is amended to read as follows:

(1) A distilled spirits and wine transporter's license shall authorize the licensee to transport distilled spirits and wine to or from the licensed premises of any licensee under KRS 243.020 to 243.670 if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.

(2) A distilled spirits and wine transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of common carrier.

(3) No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, unless expressly authorized to do so by law.

(4) Distilled spirits and wine may be transported by the holder of any license authorized by KRS 243.030 from and to express or freight depots to and from the premises covered by the license of the person so transporting distilled spirits or wine.

(5) A licensed alcoholic beverage store operator may move, within the same county, alcoholic beverages from one of the operator's licensed stores to another without a transporter's license. However, the licensed store operator shall keep and maintain, in one (1) of his or her stores in that county, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed store to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the ***Department of*** Revenue[~~ Cabinet~~] upon request.

(6) Distilled spirits and wine may be transported by the holder of any retail package or drink license issued under KRS 243.030 from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the department. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

Section 646. KRS 243.380 is amended to read as follows:

(1) Applications for licenses provided for in KRS 243.030 and 243.050 shall be made to the administrator of the distilled spirits unit. Applications for licenses provided for in KRS 243.040 shall be made to the administrator of the malt beverage unit.

(2) All applications shall be on forms furnished by the department. They shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as the board by regulation requires. Each application shall be accompanied by payment. Payment of the license fee may be by certified check, cash, a postal or express money order, or any other method of payment approved in writing by both the Finance and Administration Cabinet

and the Office of the State Treasurer. Promptly upon receipt thereof the board shall pay the same into the State Treasury, giving the ***Department of*** Revenue[~~Cabinet~~] copies of the pay-in vouchers and such other supporting data as the ***Department of***Revenue[~~Cabinet~~] may require for revenue control purposes.

Section 647. KRS 243.400 is amended to read as follows:

(1) Every applicant for a brewer's, distiller's, rectifier's, bottling house or vintner's license shall file with his application a bond to the state in the amount of one thousand dollars ($1,000). The bond shall be on a form approved by the board and shall have corporate surety registered by the Department of Insurance. The applicant shall be the principal obligor and the state shall be the obligee. The bond shall be conditioned upon the prompt payment by the obligor to the ***Department of*** Revenue[~~Cabinet~~] of any and all state taxes, with penalties and interest. The applicant may file a continuing bond provided that each renewal application is accompanied by:

(a) An affidavit that the bond remains in force, and

(b) A copy of consent of surety.

An applicant for two (2) or more licenses of the same kind may file a blanket bond covering all of his operations. The amount of such a bond shall be the same as if separate bonds were furnished.

(2) Every applicant for a wholesaler's license shall file with his application a corporate surety bond to the state in the minimum amount of two thousand dollars ($2,000) or an amount equal to three (3) times the monthly tax liability, whichever is less, and up to a maximum amount of twenty-five thousand dollars ($25,000). It shall be sufficient, in the opinion of the board, which shall consider the financial reputation and rating of the applicant, to insure payment to the state of the amount of any and all taxes and penalties and interest for which the wholesaler may become liable. It shall be on a form to be approved by the board and with surety on the bond approved by the board. The applicant shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the wholesaler to the ***Department of*** Revenue[~~Cabinet~~] of any and all state taxes, with penalties and interest.

Section 648. KRS 243.420 is amended to read as follows:

A suit to recover on any of the bonds mentioned in KRS 243.400 and 243.410 may be brought in the Franklin Circuit Court or in the circuit court of the county in which the licensed premises are located, in the name of the state, by the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] or on relation of any party aggrieved. If the obligor named in the bond has violated any of the conditions of the bond, recovery of the penal sum of the bond may be had in favor of the state or of the party aggrieved; or judgment for tax, penalties and interest may be rendered in favor of the state.

Section 649. KRS 243.490 is amended to read as follows:

(1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state board if the licensee shall have violated any of the provisions of KRS Chapter 241, 243, or 244, or any rule or regulation of the board or of the ***Department of*** Revenue[~~Cabinet~~] relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency, or commission, or any ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local alcoholic beverage authority or any similar body heretofore in existence or authorized by the terms of KRS Chapters 241, 243, and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations, or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any license may be revoked for any cause which the Alcoholic Beverage Control Board in the exercise of its sound discretion deems sufficient. A license may be revoked for any of the reasons for which the administrator would have been required to refuse a license if the facts had been known.

(2) If it is determined that an applicant for a license or license renewal under the provisions of this chapter is a delinquent taxpayer as defined in KRS 131.1815, the Department of Alcoholic Beverage Control may refuse to issue or renew the license to the applicant.

Section 650. KRS 243.490 is amended to read as follows:

(1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state board if the licensee shall have violated any of the provisions of KRS Chapter 241, 243, or 244, or any rule or regulation of the board or of the ***Department of*** Revenue[~~Cabinet~~] relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency, or commission, or any ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local alcoholic beverage authority or any similar body heretofore in existence or authorized by the terms of KRS Chapters 241, 243, and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations, or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any license may be revoked for any cause which the Alcoholic Beverage Control Board in the exercise of its sound discretion deems sufficient. A license may be revoked for any of the reasons for which the administrator would have been required to refuse a license if the facts had been known.

(2) If it is determined that an applicant for a license or license renewal under the provisions of this chapter is a delinquent

taxpayer as defined in KRS 131.1815, the Department of Alcoholic Beverage Control may refuse to issue or renew the license to the applicant.

Section 651. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.

(2) Making any false, material statements in an application for a license or supplemental license.

(3) Violation of the provisions of KRS 243.670.

(4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:

(a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;

(b) Two (2) misdemeanors directly or indirectly attributable to the use of intoxicating liquors within two (2) consecutive years; or

(c) Any felony.

(5) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the ***Department of*** Revenue~~[Cabinet]~~ made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This section shall not apply to contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter 154A.

(8) Conviction of the licensee, his agents, servants, or employees for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances; or

(c) Knowingly receiving stolen property upon the licensed premises.

Section 652. KRS 243.630 is amended to read as follows:

(1) For purpose of this section, "transfer" means:

(a) The transfer to a new person or entity of ten percent (10%) or more ownership interest in any license issued under KRS 243.020 to 243.670; or

(b) The transfer in bulk, and not in the ordinary course of business, of a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business.

(2) Any license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the state administrator in the exercise of his sound discretion under KRS 243.640 or 243.650. For the purposes of this section, each railroad dining car shall be deemed premises to be separately licensed.

(3) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the department, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the state administrator. The state administrator shall grant approval if the person acquiring the interest meets the qualifications for a new applicant.

(4) Any acquisition of interest in a license without prior authorization shall be void.

(5) All applications for approval of a transfer shall be made in writing to the state administrator having jurisdiction over the license.

(6) Applications for approval of a transfer shall be made under oath or affirmation, shall be signed by both the transferor and the transferee, and shall contain such other information as the department may prescribe.

(7) The appropriate state administrator shall grant or deny the application within sixty (60) days of the date the application is substantially complete or on a later date that is mutually acceptable to the administrator and the transferee, but it shall not be acted upon before the end of the public protest period outlined in KRS 243.360.

(8) No licensee or other person seeking to acquire an interest in an existing license shall transfer control or assume control of any licensed premises by agreement or otherwise without the written consent of the state malt beverage administrator or the state distilled spirits administrator or both.

(9) A licensee shall not transfer his or her license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or regulation which may result in the suspension or revocation of the license are pending.

(10) A licensee shall not transfer his or her license or any interest he or she has in the license if the licensee owes a debt on the inventory to a wholesaler responsible for the collection and payment of the tax imposed under KRS 243.884.

(11) A licensee shall not transfer his or her license or any interest in the license if the licensee owes the Commonwealth of Kentucky for taxes as defined in KRS 243.500(5). A transfer shall not take place until the department is notified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~] that the licensee's indebtedness has been paid or resolved to the[~~ cabinet's~~] satisfaction ***of the Department of Revenue***. This section shall not prohibit a transfer of a license or an interest in a license by a trustee in bankruptcy if all other requirements of this section are met.

Section 653. KRS 243.710 is amended to read as follows:

Each wholesaler shall pay to the ***Department of Revenue***[~~cabinet~~] five cents ($0.05) per case on each case of distilled spirits sold by him in the state. This tax shall be computed each month according to the report required to be filed by KRS 243.850 and shall be paid on or before the date in each succeeding month when reports are required to be filed.

Section 654. KRS 243.730 is amended to read as follows:

(1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by KRS 243.720(1) and (2) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits and wine is transferred from the wholesaler to retailers or consumers in this state, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth.

(b) Distributors or retailers of malt beverages, who purchase malt beverages directly from a brewer, shall pay and report the tax levied by KRS 243.720(3) on or before the twentieth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to the distributor or retailer, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth. The credit allowed brewers in this state, under the provisions of KRS 243.720(3)(b), shall flow through to the distributor or retailer who purchases malt beverages directly from the brewer. If a brewer sells, transfers, or passes title to malt beverages to any of its employees for home consumption or to any charitable or fraternal organization pursuant to the provisions of KRS 243.150, the brewer shall be responsible for paying and reporting the tax levied by KRS 243.720(3) in accordance with the provisions of subsection (c) of this section.

(c) Every brewer selling, transferring, or passing title to malt beverages to any person in this state other than a distributor or retailer, and every other person selling, transferring, or passing title of distilled spirits, wine, or malt beverages to distributors, retailers, or consumers shall report and pay the tax levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine, or malt beverages is transferred to a distributor, retailer, or consumer in this state, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth.

(d) Every distributor, retailer, or consumer possessing, using, selling, or distributing distilled spirits, wine, or malt beverages in this state upon which the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth. Such liability shall not be extinguished until the tax has been paid to the ***Department of*** Revenue[~~ Cabinet~~].

(e) Notwithstanding the provisions of subsection 1(a) of this section, every owner of a farm winery shall pay and report the tax levied by KRS 243.720 (1) and (2) on a quarterly basis, in accordance with administrative regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth.

(2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by sale or gift distilled spirits and wine shall qualify with the ***Department of*** Revenue[~~ Cabinet~~]. In order to so qualify, each wholesaler shall furnish to the ***Department of*** Revenue[~~ Cabinet~~] a certified copy of the bond required to be filed with the Cabinet of Alcoholic Beverage Control under the provisions of KRS 243.400(2).

(3) Notwithstanding the provisions of KRS 243.400(1), every brewer before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the ***Department of*** Revenue[~~ Cabinet~~] in such manner as the ***department***[~~cabinet~~] may require.

(4) The ***department***[~~cabinet~~] shall have the power to require a bond from any other person liable for Kentucky distilled spirits, wine, or malt beverage taxes provided such person is not otherwise required to post a bond under the provisions of this

section. The amount of the bond for persons liable for Kentucky distilled spirits or wine taxes shall be computed as provided in KRS 243.400(2). The amount of the bond for persons liable for Kentucky malt beverage taxes shall be in the minimum amount of one thousand dollars ($1,000) or an amount equal to three (3) times the person's average monthly Kentucky malt beverage tax liability, whichever is greater. The bond shall be on a form prescribed by the ***department***[~~cabinet~~] and have corporate surety registered by the Department of Insurance. The person liable for the tax shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the person to the ***Department of*** Revenue[~~ Cabinet~~] of all malt beverage taxes due, with penalties and interest.

Section 655. KRS 243.790 is amended to read as follows:

The sale or distribution of alcoholic beverages manufactured in or imported into this state for shipment permanently out of the state to be sold through retail outlets without the state and consumed without the state shall not be subject to the tax imposed by KRS 243.720. Provided, however, the ***Department of*** Revenue[~~ cabinet~~] may, when necessary for the purpose of control enforcement or protection of revenue, prescribe the conditions under which containers of such alcoholic beverages for shipment permanently out of the state to be sold through retail outlets without the state and consumed without the state may be kept and trafficked in without payment of the tax.

Section 656. KRS 243.850 is amended to read as follows:

For the purpose of assisting in the enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof, every licensee, except retailers, whether subject to the payment of taxes imposed by said sections or any amendments thereof, shall, on or before the twentieth day of each month, render to the ***Department of*** Revenue[~~ Cabinet~~] a statement, in writing, of all his trafficking in alcoholic beverages during the preceding month. Such statement shall be taken directly from the records of the reporting licensee, and shall set forth on forms furnished by the ***Department of*** Revenue[~~ Cabinet~~] such information as shall be required by it. Such statement shall include alcohol destined for sale outside the state, as well as alcoholic beverages subject to the tax imposed by KRS 243.720 to 243.850 and 243.884 or any amendments thereof. Provided, that the ***Department of*** Revenue[~~ Cabinet~~] shall have authority to require from retail licensees and other licensees, other reports and statements at such times as are necessary for the enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof.

Section 657. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of nine percent (9%) and upon all distributors of beer at the rate of nine percent (9%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

  (a) Sales made between wholesalers or between distributors;

  (b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

  (c) Until June 30, 2004, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky.

Section 658. KRS 244.150 is amended to read as follows:

(1) Each licensee under KRS 243.020 to 243.670 shall keep and maintain upon the licensed premises, or make readily available upon request of the department or the ***Department of*** Revenue[~~ Cabinet~~], adequate books and records of all transactions involved in the manufacture or sale of alcoholic beverages, in the manner required by regulations of the department and the ***Department of*** Revenue[~~ Cabinet~~].

(2) The commissioner may require common carriers to provide information in such form as he or she deems wise respecting all shipments of alcoholic beverages to, from, or between persons in Kentucky.

Section 659. KRS 247.910 is amended to read as follows:

For purposes of KRS 247.900 to 247.920:

(1) "Alcohol production facility" shall mean and include any property or any facility which is not fueled by petroleum but fueled by Kentucky coal, or in the process of converting to the use of coal with the completion date to be in two (2) years or less, and designed, installed, or constructed as a component part of any commercial or industrial premises for the primary purpose of producing ethanol derived from agricultural products or by-products for use as a motor fuel;

(2) "Gasohol" means a fuel containing a mixture of gasoline and at least ten percent (10%) ethanol which is at least one hundred ninety-eight (198) proof for use in motor vehicles;

(3) "Alcohol production tax exemption certificate" shall mean that certificate issued by the ***Department of*** Revenue[~~ Cabinet~~]

pursuant to KRS 247.920; and

(4) "Ethanol" means ethyl alcohol produced from grain or other agricultural products or by-products for use as a motor fuel.

Section 660. KRS 247.920 is amended to read as follows:

(1) Application for an alcohol production exemption certificate shall be filed with the ***Department of*** Revenue~~[Cabinet]~~ in such manner and in such form as may be prescribed by regulations issued by the ***Department of*** Revenue~~[Cabinet]~~ and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the ***Department of*** Revenue~~[Cabinet]~~ for the proper administration of KRS 247.910 and this section. The Kentucky Coal Council shall provide technical assistance and factual information as requested in writing by the ***Department of*** Revenue~~[Cabinet]~~. If the ***Department of*** Revenue~~[Cabinet]~~ finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before issuing an alcohol production tax exemption certificate, the ***Department of*** Revenue~~[Cabinet]~~ shall give notice in writing by mail to the Kentucky Coal Council, and shall afford to the applicant and to the Kentucky Coal Council an opportunity for a hearing. On like notice and opportunity for a hearing, the ***Department of*** Revenue~~[Cabinet]~~ shall on its own initiative revoke the certificate when any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.

(3) If the circumstances so require, the ***Department of*** Revenue~~[Cabinet]~~, in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the ***Department of*** Revenue~~[Cabinet]~~ revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Kentucky Coal Council. Notice of an order of the ***Department of*** Revenue~~[Cabinet]~~ denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Kentucky Coal Council. The applicant or holder and the Kentucky Coal Council shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the ***Department of*** Revenue~~[Cabinet]~~ to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Kentucky Coal Council and the ***Department of*** Revenue~~[Cabinet]~~.

(8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Kentucky Coal Council and to the ***Department of*** Revenue~~[Cabinet]~~.

(9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 661. KRS 247.946 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, administrative regulations, and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in order to determine the following:

(a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of KRS 247.940

to 247.978 and the rules and administrative regulations of the corporation;

(b) The qualifications of the applicant in the areas of experience, training, and financial ability in relation to the project for which assistance is sought and any other areas as the corporation shall determine necessary and desirable in implementing the intent of KRS 247.940 to 247.978 in the promotion of agriculture throughout the Commonwealth. Analysis shall include a careful evaluation of character, experience, record, and prospects for sound financial management and sound operation of the project. Financial ability factors to be considered shall include the applicant's total assets controlled, equity owned, contingent liabilities, history of earnings to date, and repayment capacity, as well as other factors set by the corporation. Consideration may be given to the special needs of beginning farmers;

(c) The economic need for the project in the area based upon general economic conditions and unemployment in the region;

(d) The economic soundness of the project based upon generally accepted cost-benefit methodology; and

(e) Consistency of the project with other policies of the Commonwealth designed to ensure a sustained land base for agriculture including preservation of prime farmland and promotion of soil conservation techniques for protection of farmland;

(3) To issue from time to time bonds, notes, bond anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidence of indebtedness, hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes, as set forth in the provisions of KRS 247.940 to 247.978; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 to 103.285; provided, however, that bonds or notes issued by the corporation shall not be subject to the jurisdiction or approval of the Industrial Revenue Bond Oversight Committee or the State Property and Buildings Commission but shall be subject to the review of the Office of Financial Management ***in the Office of the Controller within the Finance and Administration Cabinet***;

(4) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(5) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(6) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(7) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(8) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;

(9) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(10) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, and operate real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real and personal property where necessary or appropriate to the purposes of the corporation subject to the rights of holders of the bonds of the corporation, at public or private sale, with or without public bidding;

(11) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by KRS 247.940 to 247.978;

(12) To procure insurance against any loss in connection with its operations in the amounts and from any insurers, as it may deem necessary or desirable;

(13) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract, or agreement of any kind to which the corporation is a party;

(14) To include in any borrowing those amounts deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory, and legal fees and any other expenses necessary or incident to any borrowing;

(15) To make and publish administrative regulations respecting its lending programs and any other rules and regulations as are necessary to effectuate its corporate purposes;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of KRS 247.940 to 247.978;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(18) To sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to subsection (28) of this section;

(19) To maintain an office in the city of Frankfort and at any other place or places as it may determine;

(20) To employ fiscal consultants, engineers, attorneys, appraisers, and such other agents and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;

(21) To invest any funds held in sinking funds, reserve funds, or trust fund accounts or any moneys not required for immediate disbursement by the corporation in:

  (a) Obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities;

  (b) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations, fully collateralized as to any principal amount in excess of the amount insured by the United States government or any agency thereof;

  (c) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two (2) highest grades given by a nationally recognized rating agency; and

  (d) Any other investment authorized by law for the investment of funds of the Commonwealth;

(22) Subject to the rights of holders of bonds of the corporation, to renegotiate, refinance, or foreclose on any mortgage, security interest, or lien; or commence any action to protect or enforce any right or benefit conferred upon the corporation by any law, mortgage, security interest, lien, contract, or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the corporation may complete, administer, pay the principal of and interest on any obligation incurred in connection with the property, dispose of and otherwise deal with the property in any manner as may be necessary or desirable to protect the interest of the corporation or of holders of its bonds therein;

(23) To insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans, or mortgages, or any other type of loans, and pay or receive premiums on insurance, coinsurance, or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance, or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or state government or any private insurance company;

(24) To undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the Commonwealth and needs relating to the promotion of agricultural exports and ways of meeting the needs, and make the studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;

(25) To accept federal, state, or private financial or technical assistance and comply with any conditions for assistance, provided that those conditions are not in conflict with the intent of the provisions of KRS 247.940 to 247.978;

(26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable transfers, letters of credit, and other evidence of indebtedness;

(27) To serve as the beneficiary of any public trust; and

(28) To create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds.

Section 662. KRS 248.705 is amended to read as follows:

(1) Forty million dollars ($40,000,000) of the moneys credited to the agricultural development fund as set out in KRS 248.703(1)(a) shall be set aside to supplement Phase II on April 26, 2000. Additional funds shall be set aside to supplement Phase II funding as needed from moneys credited to the agricultural development fund after June 30, 2000.

(2) Phase II payments shall be supplemented each year for tobacco growers and quota owners so that the total amount available for payment is maintained at one hundred fourteen million dollars ($114,000,000) each year. If the Phase II supplement set aside referred to in subsection (1) of this section falls below the amount needed to reach the one hundred fourteen million dollar ($114,000,000) level in any year before the end of the twelve (12) year Phase II funding program, procedures outlined in subsection (3) of this section shall be followed.

(3) (a) If the moneys set aside for Phase II supplement before June 30, 2000, become insufficient to continue to meet the yearly one hundred fourteen million dollar ($114,000,000) funding level, moneys needed to supplement Phase II funding to maintain funding at the 1999 level of one hundred fourteen million dollars ($114,000,000) per year for each of the remaining eleven (11) years of the Phase II funding program shall continue to be provided to the Phase II set aside from funds received in the tobacco settlement agreement fund after June 30, 2000. As Master Settlement Agreement funding becomes available after June 30, 2000, for calendar year 2001 and each year thereafter for the life of the Phase II payment program, the moneys needed for the Phase II supplement to assure availability of the one hundred fourteen million dollar ($114,000,000) funding level for that year shall be taken from the agricultural development fund. When a determination is made that funds are needed, funds shall be taken from the agricultural development fund before any other distributions are made following the next master

settlement payment in April of each year. On the last year of distribution of the Phase II supplement funds, any excess funds beyond those needed to reach the one hundred fourteen million dollar ($114,000,000) level shall be returned to the agricultural development fund.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, if the moneys required to supplement the Phase II funding at the one hundred fourteen million dollar ($114,000,000) level are less than twenty million dollars ($20,000,000) in a year, the amount shall be deferred to a later year until at least a deficit of twenty million dollars ($20,000,000) is achieved before supplement payments are made.

(4) The Tobacco Settlement Trust Corporation created in KRS 248.480 shall provide for distribution of the Phase II supplement funds. The corporation shall use the same formula and process for distribution of the Phase II supplement funds as it uses for distributions under the regular Phase II payment program, except that the corporation shall send the list of supplement payment recipients to the ***Department of*** Revenue[~~ Cabinet~~] rather than to the trustee of the National Tobacco Grower Settlement Trust. The ***Department of*** Revenue[~~ Cabinet~~] shall process the information and issue the checks at no charge to the Agricultural Development Board. The Phase II supplement funds shall be identified as supplement funds when distributed to tobacco growers and quota owners.

Section 663. KRS 248.750 is amended to read as follows:

As used in KRS 138.146 and 248.750 to 248.769:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~];

(2) "Cigarettes" means cigarettes as defined in KRS 138.130;

(3) "Importer" means an importer as defined in 26 U.S.C. sec. 5702(1);

(4) "Manufacturer" means any person who manufactures or produces cigarettes within or without the Commonwealth;

(5) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers;

(6) "Package" means package as is defined in 15 U.S.C. sec. 1332(4); and

(7) "Person" means person as defined in KRS 446.010.

Section 664. KRS 262.765 is amended to read as follows:

(1) The board of directors of a watershed conservancy district shall prepare and furnish to the property valuation administrator by January 1 each year a list of the landowners in each county involved showing the real property subject to assessment, and the property valuation administrator of the county or counties involved shall indicate, for the use of the clerk, such information on the tax rolls. The list furnished the property valuation administrator by the board of directors shall: list the landowners in alphabetical order by taxing districts as shown on the previous year's tax roll, list the total acreage and the acreage in the watershed conservancy district owned by each landowner, and show that part of the previous year's assessment attributable to real property within the watershed conservancy district on those parcels which are not entirely within the district.

(2) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the tax due the district from each landowner in accordance with the rate fixed by the board of directors and the value or acreage of the real property indicated on the tax roll. The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue[~~ Cabinet~~].

Section 665. KRS 271B.14-220 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 271B.14-210, or revoked under the provisions of KRS 271A.615, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;

(b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of KRS 271B.4-010;

(d) Contain a certificate from the ***Department of*** Revenue[~~ Cabinet~~] reciting that all taxes owed by the corporation have been paid; and

(e) Be accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report provided for in KRS 271B.1-220.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.

(4) Notwithstanding any other provision to the contrary, any corporation which was administratively dissolved or revoked and has taken the action necessary to wind up and liquidate its business and affairs under KRS 271B.14-050, and notify claimants under KRS 271B.14-060 and 271B.14-070, shall be prohibited from reinstatement.

Section 666. KRS 273.3182 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 273.318 or revoked under the provisions of KRS 273.367, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;

(b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of KRS 273.177;

(d) Contain a certificate from the ***Department of*** Revenue[~~ Cabinet~~] reciting that all taxes owed by the corporation have been paid; and

(e) Be accompanied by the fee for filing a statement or report provided for in KRS 273.368(1)(j) and the current fee for filing each delinquent annual report provided for in KRS 273.368.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.

Section 667. KRS 275.295 is amended to read as follows:

(1) The Secretary of State may commence a proceeding to administratively dissolve a limited liability company if:

(a) The limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days after the annual report is due;

(b) The limited liability company is without a registered agent or registered office in Kentucky for at least sixty (60) days; or

(c) The limited liability company does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued.

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days from the date on which notice was mailed, the Secretary of State shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the limited liability company by mailing the notice by first class mail to the limited liability company at its registered office.

(3) (a) A limited liability company administratively dissolved under subsection (2) of this section may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the limited liability company and the effective date of its administrative dissolution;

2. State that the ground or grounds for dissolution either did not exist or have been eliminated;

3. State that the limited liability company's name satisfies the requirements under KRS 275.100;

4. Contain a certificate from the Kentucky ***Department of*** Revenue[~~ Cabinet~~] stating that all taxes owed by the limited liability company have been paid; and

5. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report as provided for in KRS 275.055(1).

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and

2. Serve a copy on the limited liability company.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company shall resume carrying on business as if the administrative dissolution had never occurred.

(4) (a) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company with a written notice that explains the reason or reasons for denial by mailing notice by first-class mail to the limited liability company at its registered office or, if none, to the last principal office identified on the most recent annual report.

(b) The limited liability company may appeal the denial of reinstatement to the Circuit Court of the county where the limited liability company's principal office, or, if there is none in Kentucky, its registered office, is located within thirty (30) days after service of the notice of denial by doing the following:

1. Filing a petition with the court to set aside the dissolution; and

2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as are other civil proceedings.

Section 668. KRS 278.130 is amended to read as follows:

(1) For the purpose of maintaining the commission, including the payment of salaries and all other expenses, and the cost of regulation of the utilities subject to its jurisdiction, the ***Department of*** Revenue[~~ Cabinet~~] shall each year assess the utilities in proportion to their earnings or receipts derived from intrastate business in Kentucky for the preceding calendar year as modified by KRS 278.150, and shall notify each utility on or before July 1 of the amount assessed against it. The total amount so assessed shall not in any year exceed two (2) mills on intrastate receipts as so modified, which shall be deposited into the State Treasury to the credit of the general fund. The sum by each utility shall not be less than fifty dollars ($50) in any one (1) year.

(2) The assessments provided for in this section shall be in lieu of all other fees or assessments levied by any city or other political subdivision for the control or regulation of utilities.

(3) The commission, upon application by a utility, shall authorize the utility to adjust its rates to recover, within not more than one (1) year, any change in the annual assessment and any costs imposed by commission order for the fees and expenses of consultants. The application, and any hearing or other proceedings thereon, shall be limited to the amount of such adjustment.

Section 669. KRS 278.150 is amended to read as follows:

(1) The commission shall, on or before June 1, certify to the ***Department of*** Revenue[~~ Cabinet~~] and the Finance and Administration Cabinet the amount of intrastate business of each utility in the state subject to its jurisdiction during the previous calendar year. The commission shall, when certifying the intrastate sales of retail electric suppliers, deduct from such sales one-half (1/2) of the applicable wholesale power costs, provided the utility from which such wholesale power purchases were made pays assessment on the full wholesale value of its gross intrastate sales in Kentucky. When certifying the intrastate sales of retail electric suppliers not subject to the jurisdiction of the commission for rates, the commission shall deduct one-half (1/2) of their actual intrastate sales. All utilities classified as retail electric suppliers shall pay assessments based on the amount of intrastate sales less deductions as certified by the commission.

(2) The Finance and Administration Cabinet shall, on or before June 10, establish the assessment rate and give written notification thereof to the ***Department of*** Revenue[~~ Cabinet~~] and the commission. The ***Department of*** Revenue[~~ Cabinet~~] shall collect and pay the assessment into the State Treasury to the credit of the general expenditure fund. All such assessments shall be paid into the State Treasury through the ***Department of*** Revenue[~~ Cabinet~~] on or before July 31 of the year in which the assessments are made.

(3) If any amount in the special fund for the maintenance of the commission remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account of the commission and may be used during any succeeding year.

Section 670. KRS 281.625 is amended to read as follows:

(1) (a) Upon the filing of an application for a certificate or permit or for amendment or for sale, transfer, or lease, or for change in route, or for abandonment of a certificate or permit, the department shall, within a reasonable time, fix the time and place for a hearing.

(b) The department shall mail written notice of the hearing, and the right to file a protest, in accordance with the regulations of the department and KRS Chapter 13B, to the applicant and every authorized carrier, including railroads, serving any part of the route proposed to be served or abandoned by the applicant. The department may also give similar notice to any other person, who, in the opinion of the department, may be interested in or affected by the granting of the application.

(2) If a protest is filed, the department shall hold an administrative hearing on the application. The department, in its discretion, may hold a hearing if no protest is filed. Hearings conducted under this section shall be conducted in accordance with KRS Chapter 13B. Any person having interest in the subject matter may, in accordance with the

regulations prescribed therefor, file a protest to the granting, in whole or in part, of the application.

(3) If the application is for a nonprofit bus certificate and no protest is filed, the department may grant the certificate without a hearing, provided the provisions of subsection (3) of KRS 281.630 or KRS 281.801 are met.

(4) The department may, if the application is solely for rights previously granted by the Interstate Commerce Commission, dispense with the holding of a hearing.

(5) Persons engaged in the transportation in interstate commerce in Kentucky of any commodity exempted by the Interstate Commerce Commission from regulation shall be subject to the same Kentucky requirements and regulations as if the persons were transporting commodities not exempted by the Interstate Commerce Commission, except that in lieu of filing or registering with the department a certificate of public convenience and necessity as issued by the Interstate Commerce Commission, the persons shall apply to the department for a permit or certificate restricted to interstate commerce and the permit or certificate may be issued without a hearing.

(6) If an applicant has been granted an irregular route common carrier certificate by the Interstate Commerce Commission, the department may grant an irregular route common carrier certificate restricted to operation in interstate commerce, and on the granting of same, it shall notify the ***Department of*** Revenue[~~ Cabinet~~] of the applicant's operation.

(7) The department may grant a permit, upon application, to operate a U-drive-it without the holding of a hearing.

Section 671. KRS 281.900 is amended to read as follows:

(1) The Kentucky Motor Carrier Advisory Committee is created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by KRS 281.905.

(2) The committee shall consist of the secretary of the Transportation Cabinet, the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet, the Speaker of the House, the President of the Senate, or their respective designated representatives, and nine (9) representatives of the motor carrier industry engaged in operations in the Commonwealth in the transportation of persons or property.

(3) On July 15, 1990, the Governor shall appoint the motor carrier industry representative to the committee. Members shall be appointed by the Governor for three (3) years, except that initial appointments to the board shall be staggered in the following manner:

  (a) Three (3) members shall serve for a period of one (1) year;

  (b) Three (3) members shall serve for a period of two (2) years; and

  (c) Three (3) members shall serve for a period of three (3) years.

(4) Motor carrier industry representatives of the committee shall qualify for membership by taking the constitutional oath of office and shall be provided with certificates of appointments. The members of the committee shall serve without per diem or compensation.

Section 672. KRS 287.235 is amended to read as follows:

(1) Common trust funds shall not be considered as an entity for income or other tax purposes, nor shall investment in such fund make taxable any property which is otherwise exempt therefrom; and for purposes of taxation, the status of the common trust fund and of each participant therein shall be determined as though there were no common fund and as though each participant was the owner of its proportionate share of every asset held in the common fund. The bank or trust company maintaining said fund shall file a report of said fund with the property valuation administrator as of the ad valorem tax date and shall file annually such income tax information as may be required by the ***Department of*** Revenue[~~ Cabinet~~].

(2) Notwithstanding subsection (1) of this section, if a common trust fund transfers substantially all of its assets to one (1) or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are transferred and such stock is distributed by such common trust fund to the participants in such common trust fund in a transaction which would qualify under Section 584(h) of the Internal Revenue Code of 1986, as amended, for the nonrecognition of gain or loss of such transfer or distribution by the common trust fund, then no gain or loss shall be recognized for Kentucky income tax purposes by the common trust fund by reason of such transfer or distribution or by the participants in such common trust fund by reason of such exchange.

Section 673. KRS 299.530 is amended to read as follows:

All domestic mutual fire insurance companies referred to in KRS 299.470 or cooperative and assessment fire insurance shall by March 1 of each year, file with the ***Department of*** Revenue[~~ Cabinet~~] a report showing the amount of premiums contracted for by them in a reinsurance company during the preceding calendar year, and shall pay at the time of making the return a tax of two dollars (S2) on each one hundred dollars ($100) of the premiums paid to any company not authorized to do business in this state.

Section 674. KRS 304.4-030 is amended to read as follows:

Each domestic mutual insurer shall file with the ***Department of*** Revenue[~~ Cabinet~~] each year by March 1, a report showing the premiums paid by it during the preceding calendar year to all reinsurers, and shall accompany such report with payment of a tax of two percent (2%) of the amount of premiums so paid to insurers not authorized to transact business in this state at the time such reinsurance was so ceded.

Section 675. KRS 304.10-180 is amended to read as follows:

(1) Each broker shall pay the following taxes:

(a) A tax at the rate of three percent (3%) on the premiums, assessments, fees, charges, or other consideration deemed part of the premium as defined in KRS 304.14-030, on surplus lines insurance subject to tax transacted by him or her with unauthorized insurers during the preceding calendar quarter as shown by his or her quarterly statement filed with the commissioner in accordance with KRS 304.10-170. The tax shall not be assessed on the premium surcharge tax, the local government premium tax, or any other state or federal tax. The tax shall be remitted to the commissioner within thirty (30) days of the end of each calendar quarter. When collected the tax shall be credited to the insurance regulatory trust fund, as established by KRS 304.2-400;

(b) The premium surcharge tax, to be remitted to the Kentucky ***Department of*** Revenue~~[Cabinet]~~, in accordance with KRS 136.392; and

(c) The local government premium tax, to be remitted to the appropriate city, county, or urban-county government taxing authority, in accordance with KRS 91A.080.

(2) If a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

Section 676. KRS 304.13-011 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) A "market" is the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutable products including but not limited to consideration of coverage, policy terms, rate classifications, and underwriting. A geographic market component is a geographical area in which buyers have a reasonable degree of access to insurance sales outlets. Determination of a geographic market component shall consider existing market patterns.

(2) "Supplementary rating information" includes any manual or plan of rates, classification, rating schedule, minimum premium, policy fees, rating rules, or any other similar information needed to determine the applicable rate or premium. This shall include underwriting rules, but only to the extent necessary to determine the rate or premium that will be applicable to a risk should the insurer decide to provide coverage. This does not include guidelines that relate to the selection of those risks that are acceptable to an insurer.

(3) "Supporting information" is the experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer, the interpretation of any other data relied on by the filer, descriptions of methods used in making the rates, and any other information required to be filed by the commissioner.

(4) "Personal risks" means homeowners, tenants, private passenger nonfleet automobiles, mobile homes, and other property and casualty insurance for personal, family, or household needs.

(5) "Commercial risks" are any kinds of risks that are not personal risks.

(6) "Joint underwriting" is a voluntary arrangement established to provide insurance coverage for a risk pursuant to which two (2) or more insurers jointly contract with the insured at a price and under policy terms agreed on between the insurers.

(7) A "pool" is a voluntary arrangement, other than by a contract of reinsurance, established on a general and continuing basis pursuant to which two (2) or more insurers participate in the sharing of risks on a predetermined basis. A pool may operate through an association, syndicate or other pooling agreement.

(8) A "residual market mechanism" is an agreement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance that may be afforded applicants who are unable to obtain insurance through ordinary methods.

(9) An "advisory organization" is any entity, including its affiliates or subsidiaries, which either has two (2) or more member insurers or is controlled either directly or indirectly by two (2) or more insurers and which assists insurers in ratemaking related activities. Two (2) or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer for purposes of this definition.

(10) A "competitive market" is a market that has not been found to be noncompetitive pursuant to KRS 304.13-041 and for which no such order is in effect.

(11) A "noncompetitive market" is a market for which there is an order in effect pursuant to KRS 304.13-041 that a reasonable degree of competition does not exist.

(12) "Trending" is any procedure for projecting developed losses to the average date of loss, or premiums or exposures to the average date of writing, for the period during which the policies are to be effective.

(13) "Expenses" are those portions of any rate attributable to acquisition, field supervision, and collection expenses, general expenses, and premium taxes, licenses, and fees.

(14) "Profit" is the portion of any rate attributable to funds needed for growth, contingencies, and return to stockholders.

(15) "Pure premium" means the loss cost per unit of exposure excluding all loss adjustment expenses.

(16) "Classification system" or "classification" means the process of grouping risks with similar risk characteristics so that

differences in cost may be recognized.

(17) "Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to their ultimate anticipated value.

(18) "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(19) "Form provider" means a person who prepares, files, and distributes policy contract forms and endorsements and consults with members, subscribers, customers, or others relative to their use and application, but is not an advisory organization as defined in this subtitle.

(20) "Loss adjustment expenses" means the expenses incurred by the insurer in the course of settling claims.

(21) "Prospective loss costs" means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and are based on historical aggregate losses or output from simulation models and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time. Loss costs, derived in part or entirely upon output form simulation models, must be approved by the commissioner before they become effective.

(22) "Rate" means the expected value of the future cost of insurance per exposure unit which accounts for the treatment of losses, expenses, and profit prior to any application of individual risk variations based on loss or expense considerations, but does not include minimum premium.

(23) "Special assessments" means guaranty fund assessments, residual market mechanism assessments, and other similar assessments which are included in ratemaking. Special assessments shall not be considered as either expenses or losses. Additional charges collected by the insurer and returned to a governmental agency on behalf of an insured are not special assessments. Examples of these additional charges include, but are not limited to, the special fund charge for workers' compensation imposed by KRS Chapter 342, local government premium tax imposed by KRS 91A.080, and the ***Department of*** Revenue[~~ Cabinet~~] surcharge imposed by KRS Chapter 136.

(24) "Statistical agent" means an entity that has been licensed by the commissioner to collect statistics from insurers and provide reports developed from these statistics to the commissioner for the purpose of fulfilling the statistical reporting obligations of those insurers under this chapter.

Section 677. KRS 304.49-220 is amended to read as follows:

(1) Every captive insurer holding a certificate of authority under KRS 304.49-010 to 304.49-230 shall return to the ***Department of*** Revenue[~~ Cabinet~~] a statement under oath of all premium receipts on business written by the captive insurer during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of four-tenths of one percent (0.4%) on the first twenty million dollars ($20,000,000), and three-tenths of one percent (0.3%) on the next twenty million dollars ($20,000,000), and two-tenths of one percent (0.2%) on the next twenty million dollars ($20,000,000), and seventy-five thousandths of one percent (0.075%) on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurer during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(2) Every captive insurer holding a certificate of authority under KRS 304.49-010 to 304.49-230 shall return to the ***Department of*** Revenue[~~ Cabinet~~] a statement under oath of all assumed reinsurance premium receipts during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of two hundred twenty-five thousandths of one percent (0.225%) on the first twenty million dollars ($20,000,000) of assumed reinsurance premiums, and one hundred fifty thousandths of one percent (0.150%) on the next twenty million dollars ($20,000,000), and fifty thousandths of one percent (0.050%) on the next twenty million dollars ($20,000,000), and twenty-five thousandths of one percent (0.025%) of each dollar thereafter. However, no reinsurance tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection (1) of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer, and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurer.

(3) If the aggregate taxes to be paid by a captive insurer calculated under subsections (1) and (2) of this section amount to less than five thousand dollars ($5,000) in any year, the captive insurer shall pay a tax of five thousand dollars ($5,000) for such year.

(4) Two (2) or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurer.

(5) For the purposes of this section, common ownership and control shall mean:

(a) In the case of stock corporations, the direct or indirect ownership of eighty percent (80%) or more of the outstanding voting stock of two (2) or more corporations by the same shareholder or shareholders; and

(b) In the case of mutual corporations, the direct or indirect ownership of eighty percent (80%) or more of the surplus and the voting power of two (2) or more corporations by the same member or members.

(6) In the case of a branch captive insurer, the tax provided for in this section shall apply only to the branch business of the company.

(7) The tax provided for in this section shall constitute all taxes collectible under the laws of Kentucky from any captive insurer, and the taxes imposed under this section shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district except as provided in KRS 136.320(6) and (7).

(8) The Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall annually distribute ten percent (10%) of the premium tax revenues collected pursuant to this section to the Department of Insurance for the regulation of captive insurance companies under KRS 304.49-010 to 304.49-230.

Section 678. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of September 1 preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall credit nineteen million dollars ($19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars ($19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars ($4,750,000).

(d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date

that the premium is actually received by the insurance company.

(4) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a group self-insurance association.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The Department for Employment Services, Cabinet for Workforce Development is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, group self-insurer, or insurance carrier shall provide any information and submit any reports the ***Department of*** Revenue[~~ Cabinet~~] or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provision of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 679. KRS 342.1223 is amended to read as follows:

(1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.

(2) The commission shall:

(a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;

(b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386, except that the funding commission may, at its discretion, invest in nondividend-paying equity securities;

(c) Report to the General Assembly at each even-numbered-year regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by the mechanism, including detailed information on the investment of funds and yields thereon;

(d) Recommend to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, changes deemed necessary in the level of the assessments imposed in this chapter;

(e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, a proposed budget for the biennium beginning July 1 following the even-numbered-year regular session of the General Assembly;

(f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;

(g) Conduct periodic audits, independently or in cooperation with the Labor Cabinet or the ***Department of*** Revenue[~~ Cabinet~~], of all entities subject to the assessments imposed in this chapter; and

(h) Report monthly to the Committees on Appropriations and Revenue and on Labor and Industry its monthly expenditures of restricted agency funds and the nature of the expenditures.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including, but not limited to, the power:

(a) To sue and be sued, complain, or defend, in its name;

(b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and

(f) To make and promulgate administrative regulations.

(4) Notwithstanding the provisions of this chapter to the contrary, the Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management ***in the Office of the Controller within the Finance and Administration Cabinet*** rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of the funds.

(5) The commission shall be attached to the Labor Cabinet for administrative purposes only.

Section 680. KRS 342.1224 is amended to read as follows:

(1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the Labor Cabinet, the secretary of the Cabinet for Economic Development or a designee, the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet ***or a designee***, and four (4) members who shall be appointed by the Governor.

(2) The four (4) appointed members shall include:

(a) One (1) member, selected from a list of three (3) submitted by the secretary of labor, who shall represent labor;

(b) One (1) member, selected from a list of three (3) submitted by the secretary for economic development, who shall represent employers, provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employees from insurance companies writing workers' compensation insurance in the Commonwealth;

(c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth; and

(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth.

(3) The members of the board of directors shall serve a term of four (4) years, except that the initial terms of the members shall be staggered as follows:

(a) The initial member appointed by the Governor to represent labor shall serve a term of one (1) year. Thereafter, such member shall serve a term of four (4) years;

(b) The initial member appointed by the Governor to represent employers shall serve a term of two (2) years. Thereafter, such member shall serve a term of four (4) years;

(c) The initial member appointed by the Governor to represent insurance companies shall serve a term of four (4) years. Thereafter, such member shall serve a term of four (4) years; and

(d) The initial member appointed by the Governor to represent self-insured employers shall serve a term of three (3) years. Thereafter, such member shall serve a term of four (4) years.

(4) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(5) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(6) Notwithstanding any other law, the Governor, pursuant to an executive order, may cause the employees of the commission to be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.

(7) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its

business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

(8) The board of directors of the Kentucky Workers' Compensation Funding Commission are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.

Section 681. KRS 342.447 is amended to read as follows:

(1) All funds collected by insurance companies from their insureds, prior to October 26, 1987, for assessments of the Kentucky Reinsurance Association or special fund taxes and assessments of the Kentucky ***Department of*** Revenue[~~Cabinet~~] not previously paid, shall be paid in full by January 1, 1988, to the Kentucky Workers' Compensation Funding Commission.

(2) To ensure compliance with the provisions of subsection (1) of this section, the ***Department of*** Revenue[~~Cabinet~~] shall conduct audits of insurance companies. The costs of such audits shall be borne by the Kentucky Workers' Compensation Funding Commission. The ***Department of*** Revenue[~~Cabinet~~] may enter an agreement with the Department of Insurance for assistance in conducting such audits or it may hire additional auditors on a temporary basis. The audits shall commence within sixty (60) days from October 26, 1987, and shall be completed within six (6) months. The aggregate findings of such audits shall be presented to the ***commissioner***[~~secretary~~] of revenue, the commissioner of insurance, the Kentucky Workers' Compensation Funding Commission, and the Governor.

(3) If the audits reveal noncompliance with subsection (1) of this section, the ***Department of*** Revenue[~~Cabinet~~] shall notify the affected party of such fact. The affected party shall remit the amount in question not later than thirty (30) days following notification and the ***Department of*** Revenue[~~Cabinet~~] shall institute a civil action in Franklin Circuit Court if remittance is not made within such thirty (30) day period.

(4) The failure of an insurance company to comply with the provisions of this section shall constitute grounds for the revocation by the commissioner of insurance of such entity's authority to write workers' compensation coverage in the Commonwealth.

(5) The ***Department of*** Revenue[~~Cabinet~~] shall report to the commissioner of insurance the failure of any insurance company to comply with the provisions of this section and the commissioner shall institute revocation procedures of such entity's authority to write workers' compensation coverage in the Commonwealth.

(6) "Funds collected" as used in subsection (1) of this section shall mean all funds collected without reduction for credits, refund, or returns of any type made to insureds or group members after September 1, 1987.

Section 682. KRS 351.175 is amended to read as follows:

(1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.

(2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.

(3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars ($100) and a maximum of fifteen hundred dollars ($1,500). When the annual report of the licensee and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of the Department of Workers' Claims that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342, and a certification from the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~Cabinet~~] that the applicant is not a "delinquent taxpayer" as defined in KRS Chapter 131, are properly submitted to the department, the license shall be issued. The commissioner ***of the Department of Mines and Minerals*** or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of the Department of Workers' Claims, or upon receipt of notice from the ***commissioner***[~~secretary~~] of revenue that the licensee is a "delinquent taxpayer," as defined in KRS Chapter 131, the department shall forthwith revoke any license issued. Revocation of a license shall be an administrative function of the department. Appeal of the revocation of a license shall lie in the Fayette Circuit Court.

(5) The mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(6) The department shall be authorized to seek injunctive relief for any violation of this section.

(7) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the ***commissioner***[~~secretary~~] of revenue.

(8) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 683. KRS 353.205 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall submit to the department on or before September 1 of each year, beginning in 1995 for 1994 production data, statistics on crude oil as reported to the ***Department of*** Revenue[~~ Cabinet~~] under the crude oil excise tax requirements of KRS Chapter 137 and statistics on natural gas production as reported to the ***Department of*** Revenue[~~ Cabinet~~] under the natural resources severance tax requirements of KRS Chapter 143A.

(2) The department shall organize the information it receives from the ***Department of*** Revenue[~~ Cabinet~~] into a standard format, and shall make it available for public release no earlier than January 1 nor later than March 1 of the following year, with the exception of the first year, when data shall be made available by September 1, 1996. The information shall be open for public inspection and available for sale at the offices of the department. The department may allow the Kentucky Geological Survey to use the production information in ongoing research as soon as it is obtained from the ***Department of*** Revenue[~~ Cabinet~~], so long as the information is not released to the public before January 1 of the year after it is reported.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall submit to the department the oil and gas production data which was reported in years prior to 1995, and the department shall make this information available for public release when it has been processed.

Section 684. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

(2) "***Commissioner***[~~Secretary~~]" means the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] of the Commonwealth of Kentucky.

(3) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130(11), broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.

(6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" means any transfer for consideration or gift.

(8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing

business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

Section 685. KRS 365.350 is amended to read as follows:

(1) The ***department***[~~cabinet~~], or any person injured by any violation, or who may suffer injury from any threatened violation of KRS 365.260 to 365.380, may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin the violation or threatened violation. If a violation or threatened violation of KRS 365.260 to 365.380 shall be established, the court shall enjoin and restrain, or otherwise prohibit, the violations or threatened violation. In addition, the court shall assess in favor of the plaintiff and against the defendant the cost of the suit, including reasonable attorney's fees. It shall not be necessary that actual damages to the plaintiff be alleged or proved, but if alleged and proved, the plaintiff in the action, in addition to injunctive relief, the costs of the suit, and reasonable attorney's fees, shall be entitled to recover from the defendant the actual damages sustained by him.

(2) If no injunctive relief is sought or required, any person injured by a violation of KRS 365.260 to 365.380 may maintain an action for damages and the costs of suit in any court of general jurisdiction.

Section 686. KRS 365.370 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall promulgate administrative regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one (1) or more cost surveys for the state or trading area or areas as it defines. When each survey is made by or approved by the ***department***[~~cabinet~~], it may use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.

(2) The ***department***[~~cabinet~~] may, upon notice and after hearing, revoke or suspend any license issued under KRS 138.195 and the administrative regulations of the ***department***[~~cabinet~~] promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any administrative regulation adopted thereunder.

(3) All of the powers vested in the ***commissioner***[~~secretary~~] and ***Department of*** Revenue[~~ Cabinet~~] by the provisions of the cigarette tax law shall be available for the enforcement of KRS 365.260 to 365.380.

(4) Any person aggrieved by any decision, order, or finding of the ***Department of Revenue***[~~cabinet~~], suspending or revoking any license, may appeal to the Kentucky Board of Tax Appeals by filing a petition of appeal with the board in the manner and form and within the time and subject to the terms and conditions as the board shall by administrative regulation prescribe.

Section 687. KRS 365.390 is amended to read as follows:

(1) To provide for the enforcement of KRS 138.146 and KRS 365.260 to 365.380, every cigarette wholesaler licensed under KRS 138.195 shall pay an enforcement and administration fee to the ***Department of*** Revenue[~~ Cabinet~~] on a monthly basis for each package of twenty (20) cigarettes to which evidence of Kentucky cigarette tax was affixed during the month as required by KRS 138.146. The enforcement and administration fee to recover applicable costs shall be calculated annually by the ***commissioner***[~~secretary~~] of revenue who shall give notice thereof to licensed wholesalers who shall be liable for its payment. Payments to the ***Department of*** Revenue[~~ Cabinet~~] shall be made according to provisions of KRS 138.195 and shall be subject to the same penalties and interest as levied on Kentucky cigarette tax not paid on or before the due date.

(2) There is hereby created within the ***Department of*** Revenue[~~ Cabinet~~] a cigarette enforcement and administration account, which will be subject to the provisions of the restricted fund group, as provided in KRS 45.305, and all funds collected under subsection (1) of this section shall be credited thereto with only the expenses of the ***Department of*** Revenue[~~ Cabinet~~] related to the administration and enforcement of KRS 138.146 and KRS 365.260 to 365.380 to be paid therefrom.

(3) The enforcement and administration fee levied in subsection (1) of this section shall be deemed to be an additional cost to be included in the basic cost of cigarettes as defined in KRS 365.270.

Section 688. KRS 365.665 is amended to read as follows:

Any transient merchant desiring to transact business in any county in this state shall make application for and obtain a permit in each county in which the merchant desires to transact business at least ten (10) days prior to transacting business in the county. The application for permit shall be designed and distributed by the ***Department of*** Revenue[~~ Cabinet~~], shall be filed by the transient merchant with the county clerk, or the officer of an urban-county government having the responsibility for the issuance of business permits and licenses generally and shall include but not be limited to the following information:

(1) The name and permanent address of the transient merchant making the application, and if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation;

(2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than Kentucky, the date on which such corporation qualified to transact business as a foreign corporation in this state;

(3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of the proposed place of business;

(4) An estimate of the aggregate market value of any goods, wares or merchandise to be offered for sale during the permit period;

(5) A statement that the applicant has acquired all other required city, county and state permits and licenses;

(6) The applicant's sales and use tax permit number or temporary vendor's registration number, and the Social Security numbers, of all salesmen employed by the applicant, or representing the applicant, in the transaction of business in the Commonwealth of Kentucky;

(7) The name and permanent address of the transient merchant's registered agent or office; and

(8) Evidence of security as outlined in KRS 365.680. The absence of any of the above information shall result in the denial of the permit by the county clerk.

Section 689. KRS 365.670 is amended to read as follows:

The county clerk shall forward a copy of each approved application to the ***Department of*** Revenue[~~ Cabinet~~] and to the office of the Attorney General within ten (10) days of approval.

Section 690. KRS 369.118 is amended to read as follows:

(1) Except as otherwise provided in KRS 369.112(6), each governmental agency of this state, in compliance with standards established by the ***Commonwealth Office of***[~~Governor's Office for~~] Technology, shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(2) To the extent that a governmental agency uses electronic records and electronic signatures under subsection (1) of this section:

   (a) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology, giving due consideration to security, may specify the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

   (b) If electronic records must be signed by electronic means, each governmental agency, giving due consideration to security, may specify the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

   (c) The ***Commonwealth Office of***[~~Governor's Office for~~] Technology and the Department for Libraries and Archives, giving due consideration to security, may specify control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

   (d) Each governmental agency, giving due consideration to security, may specify any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(3) Except as otherwise provided in KRS 369.112(6), KRS 369.101 to 369.120 does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

Section 691. KRS 369.119 is amended to read as follows:

The ***Commonwealth Office of***[~~Governor's Office for~~] Technology, which adopts standards pursuant to KRS 369.118(2)(a), may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

Section 692. KRS 387.025 is amended to read as follows:

(1) Any interested person or entity may petition the District Court for the appointment of a guardian or limited guardian for an unmarried minor.

(2) Any interested person or entity may petition the District Court for appointment of a conservator for a minor who owns real or personal property, or both, requiring management or protection or who has or may have business interests that may be jeopardized or prevented by minority, or who needs a conservator to settle or compromise claims.

(3) The petition for appointment shall set forth the following:

   (a) The name and address of the minor;

   (b) The date of birth of the minor;

   (c) The name and address of the minor's spouse, if any;

(d) The names and addresses of the minor's parents, or if the minor has no living parent, the names and addresses of the minor's adult next of kin;

(e) The name and address of the individual or facility having custody of the minor;

(f) The facts and reasons supporting the need for a guardianship, limited guardianship, or conservatorship for the minor;

(g) A description and approximation of the value of the minor's real and personal property and other financial resources, including government benefits, insurance entitlements, and anticipated yearly income;

(h) The name and address of the petitioner;

(i) The name and address of the petitioner's attorney, if any; and

(j) The name and address of the person or entity desiring appointment as guardian, limited guardian, or conservator.

(4) The petition shall be accompanied by a verified application of the person or entity desiring appointment as guardian, limited guardian, or conservator. The application shall set forth the following:

(a) Name, address, and age of the applicant;

(b) The applicant's relationship to the minor, if any;

(c) Whether or not the applicant has ever been convicted of a crime; and

(d) The applicant's qualifications to serve as guardian, limited guardian, or conservator.

(5) A duplicate copy of the petition and application shall be mailed by the clerk to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~]. The District Court shall appoint a time for hearing the petition and application. Notice of the time and place of the hearing shall be given not less than five (5) days prior to the hearing to the minor, if the minor is more than fourteen (14) years of age, and to each of the persons or entities required to be named in the petition. Proof of notice shall be made in accordance with the provisions of KRS 395.016. Notice may be waived as provided in KRS 395.016.

Section 693. KRS 424.260 is amended to read as follows:

(1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than twenty thousand dollars ($20,000) without first making newspaper advertisement for bids.

(2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than twenty thousand dollars ($20,000), the fiscal court requirement shall prevail.

(3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the ***Office***[~~Division~~] of Material and Procurement Services ***in the Office of the Controller within the Finance and Administration Cabinet*** or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.

(b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.

(4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

(5) The provisions of subsection (1) of this section shall not apply for the purchase of wholesale electric power for resale to the ultimate customers of a municipal utility organized under KRS 96.550 to 96.900.

Section 694. KRS 438.335 is amended to read as follows:

The Department of Agriculture shall carry out the provisions of KRS 438.305 to 438.340 as they relate to educating the public and sellers of tobacco products about provisions and penalties of KRS 438.305 to 438.340. The Department of Agriculture shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the ***Department of*** Revenue[~~Cabinet~~] from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of these education efforts.

Section 695. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property.

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not such sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report or form issued or prescribed by the ***Department of*** Revenue[~~Cabinet~~] and required to be filed with the ***Department of*** Revenue [~~Cabinet~~] as prescribed by law.

Section 696. KRS 42.019 is amended to read as follows:

(1) The Division of Historic Properties established by ***Section 17 of this Act***[~~KRS 42.027~~] shall be responsible for overseeing the management and preservation of state-owned historic properties including, but not limited to, the Executive Mansion, Old Governor's Mansion, Vest Lindsey House, Berry Hill, State Capitol, and Henry Clay Law Office. In addition, the division shall be responsible for maintaining state-owned furniture, china, silver, and art works and the care, display, inventory, conservation, restoration, and storage of any state-owned item of historical significance.

(2) The Department of Parks and the Kentucky Horse Park may advise and consult the Division of Historic Properties in the operation, maintenance, restoration, conservation, and inventory of the state's shrines and museums.

(3) The director of the Division of Historic Properties shall serve as state curator pursuant to KRS 11.026. The director may employ the personnel and assemble the records and files necessary to perform the duties, responsibilities, and functions of the office.

Section 697. The following KRS section is repealed:

67A.884 Assistance agreement with Kentucky Pollution Abatement Authority.

Section 698. In order to reflect the reorganization effectuated by this Act, the reviser or statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 699. Any provision of law to the contrary notwithstanding, the General Assembly hereby confirms the portion of the Governor's Executive Order 2004-723, dated July 9, 2004, relating to the Finance and Administration Cabinet and the abolishing of the Revenue Cabinet to the extent it is not otherwise confirmed or superseded by this Act.

The Committee on Education reported **SB 19** with Committee Amendments with expression of opinion that same should pass. Read at length for the first time and placed in the Calendar.

SB 19 is as follows:

SB 19, AN ACT relating to reading, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. This Act shall be cited as the "Read to Achieve Act of 2005."

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that reading proficiency is a gateway skill necessary for all of Kentucky students to achieve the academic goals established in KRS 158.6451. It is Kentucky's goal that all children learn to read well before exiting the primary program.

(2) It is the intent of the General Assembly that every elementary school:

(a) Provide a comprehensive schoolwide reading program;

(b) Provide diagnostic reading assessments and intervention services for those students who need them to learn to read at the proficient level; and

(c) Ensure quality instruction by highly trained teachers.

Section 3. KRS 158.792 is amended to read as follows:

(1) As used in this section and KRS 164.0207, unless the context requires otherwise:

(a) ***"Comprehensive reading program" means a program that emphasizes the essential components of reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read***[~~"Reading" means the process of comprehending the meaning of written text by depending on:~~

~~1. The ability to use phonics skills, that is, knowledge of letters and sounds, to decode printed words quickly and effortlessly, both silently and aloud;~~

~~2. The ability to use previously learned strategies for reading comprehension; and~~

~~3. The ability to think critically about the meaning, message, and aesthetic value of the text~~].

(b) ***"Reading diagnostic assessment" means an assessment that identifies a struggling reader and measures the reader's skills against established performance levels in the essential components of reading. The purpose is to screen for areas that require intervention in order for the student to learn to read proficiently.***

(c) "Reading intervention program" means short-term intensive instruction in the essential skills necessary to read proficiently that is provided to a student by a highly trained teacher. This instruction may be conducted one-on-one or in small groups, shall be research-based, reliable, and replicable, and shall be based on the ongoing assessment of individual student needs.

(d) "Reliable, replicable research" means objective, valid, scientific studies that:

1. Include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;

2. Rely on measurements that meet established standards of reliability and validity;

3. Test competing theories, where multiple theories exist;

4. Are subjected to peer review before their results are published; and

5. Discover effective strategies for improving reading skills.

(2) The ***reading diagnostic and intervention***[~~ early reading incentive~~] fund is created to ***help teachers*** improve the reading skills of ***struggling readers***[~~students~~] in the primary program. The Department of Education, upon the recommendation of the ***Reading Diagnostic and Intervention***[~~Early Reading Incentive~~] Grant Steering Committee, shall provide ***renewable, two (2)-year*** grants to schools to support teachers in the implementation of reliable, replicable research-based reading ***intervention programs***[~~models~~] that use a balance of ***diagnostic tools, and*** instructional strategies ***that emphasize phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read***[~~, including phonics instruction,~~] to address the diverse learning needs of those students

reading at low levels. Any moneys in the fund at the close of the fiscal year shall not lapse but shall be carried forward to be used for the purposes specified in this section.

(3) ***(a) The Kentucky Board of Education shall promulgate administrative regulations, based on recommendations from the secretary of the Education Cabinet, the Reading Diagnostic and Intervention Grant Steering Committee established in Section 4 of this Act, and the Collaborative Center for Literacy Development established in Section 5 of this Act to:***

1. Identify eligible grant applicants, taking into consideration how the grant program described in this section will relate to other grant programs;

2. Specify the criteria for acceptable diagnostic assessments and intervention programs;

3. Specify the criteria for acceptable ongoing assessment of each child to determine his or her reading progress;

4. Establish the minimum evaluation process for an annual review of each grant recipient's program and progress;

5. Identify the annual data that must be provided from grant recipients;

6. Define the application review and approval process;

7. Establish matching requirements deemed necessary;

8. Define the professional development and continuing education requirements for teachers, administrators, and staff of grant recipients;

9. Establish the conditions for renewal of a two (2) year grant; and

10. Specify other conditions necessary to implement the purposes of this section.

(b) The board shall require that a grant applicant provide assurances that the following principles will be met if the applicant's request for funding is approved:

1. A research-based comprehensive schoolwide reading program will be available;

2. Intervention services will supplement, not replace, regular classroom instruction;

3. Intervention services will be provided to struggling primary program readers within the school based upon ongoing assessment of their needs; and

4. A system for informing parents of struggling readers of the available family literacy services within the district will be established[~~Upon recommendation of the Early Reading Incentive Grant Steering Committee, the state board shall establish by promulgation of an administrative regulation in accordance with provisions of KRS Chapter 13A an application process and the criteria for funding grants. The application shall include, but not be limited to, the following:~~

~~(a) Identification of the research-based model to be implemented;~~

~~(b) The method for identifying qualified students to be served;~~

~~(c) An implementation plan and timeline, including supporting professional development efforts;~~

~~(d) A plan for evaluation to assess the short-term and long-term success of the program;~~

~~(e) A budget; and~~

~~(f) Approval of the application by the school council if one exists, the principal, and the superintendent of schools~~].

(4) In order to qualify for funding, the school council, or if none exists, the ***principal or the*** superintendent of schools, shall allocate matching funds ***required by grant recipients under subsection (3) of this section***. Funding for professional development allocated to the school council under KRS 160.345 and for continuing education under KRS 158.070 may be used as part of the school's match.

(5) The Department of Education shall make available to schools:

(a) Information concerning successful, research-based ***comprehensive***[~~early~~] reading ***programs, diagnostic tools for pre- and post-assessment, and intervention programs***[~~ models including phonics instruction~~], from the Collaborative Center for Literacy Development created under KRS 164.0207;

(b) Strategies for successfully implementing early reading programs, including professional development support and the identification of funding sources; and

(c) A list of professional development providers offering teacher training related to ***reading that emphasizes the essential components for successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read***[~~phonics instruction~~].

(6) The Department of Education shall submit a report to the Interim Joint Committee on Education no later than September 1 of each year outlining the use of grant funds[~~ and a summary of the program's evaluation conducted by the Collaborative Center for Literacy Development under KRS 164.0207~~]. ***The report shall also include comparisons of the overall costs***

and effectiveness of approved intervention programs. The annual report for an odd-numbered year shall include an estimate of the cost to expand the reading diagnostic and intervention grant program.

Section 4. KRS 158.794 is amended to read as follows:

(1) The ***Reading Diagnostic and Intervention***[~~Early Reading Incentive~~] Grant Steering Committee is hereby created for the purpose of advising the Kentucky Board of Education and the Department of Education concerning the implementation and administration of the[~~ early~~] reading ***diagnostic and intervention***[~~incentive grant~~] fund created ***in Section 3 of this Act***[~~by KRS 158.792~~]. The committee shall be composed of ***sixteen (16)***[~~fifteen (15)~~] members including the commissioner of education or the commissioner's designee, the ***executive director of the Collaborative Center for Literacy Development, the*** president of the Council on Postsecondary Education or the president's designee,[~~ the commissioner of the Department for Adult Education and Literacy or the commissioner's designee,~~] and the following members, to be appointed by the Governor:

(a) ***Five (5)***[~~Two (2)~~] primary program teachers with a specialty or background in reading and literacy;

(b) ***Four (4)***[~~Eight (8)~~] university professors with a specialty or background in reading and literacy representing[~~ each of the~~] public universities;[~~ and~~]

(c) ***One (1) elementary school principal; and***

(d) ***Three (3)***[~~Two (2)~~] individuals from the state at large with ***an***[~~ background and~~] interest in reading and literacy.

(2) Each member of the committee, other than members who serve by virtue of their position, shall serve for a term of three (3) years or until a successor is appointed [~~and qualified, ~~]except that upon initial appointment, ***five (5)***[~~four (4)~~] members shall serve a one (1) year term, four (4) members shall serve a two (2) year term, and four (4) members shall serve a three (3) year term.

(3) A majority of the full authorized membership shall constitute a quorum.

(4) The committee shall elect, by majority vote, a chair, who shall be the presiding officer of the committee, preside at all meetings, and coordinate the functions and activities of the committee. The chair shall be elected or reelected each calendar year.

(5) The committee shall be attached to the Department of Education for administrative purposes.

(6) The committee shall:

(a) Identify needs***, trends, and issues*** in schools throughout the state regarding reading and literacy programs;

(b) ***Make recommendations regarding the content of administrative regulations to be promulgated by the Kentucky Board of Education under Section 3 of this Act;***[~~Develop criteria for the solicitation, review, and approval of grant applications provided under KRS 158.792;~~

~~(c) Develop a process for monitoring grants that are awarded; and~~]

(c)[~~(d)~~]Recommend approval of grant applications based upon ***the provisions of Section 3 of this Act and administrative regulations promulgated by the Kentucky Board of Education as required under Section 3 of this Act; and***

(d) Advise the Kentucky Board of Education and the Department of Education regarding costs and effectiveness of various reading intervention programs[~~criteria established by the committee~~].

Section 5. KRS 164.0207 is amended to read as follows:

(1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available ***professional development***[~~training~~] for educators in reliable, replicable research-based reading ***programs***[~~models~~], and to promote literacy development***, including family literacy***. The center shall be responsible for:

(a) Developing and implementing a clearinghouse for information about ***programs***[~~models~~] addressing reading and literacy from ***early childhood and*** the elementary grades ***(P-5)*** through adult education;

(b) ***Providing advice to the Kentucky Board of Education regarding the Reading Diagnostic and Intervention Grant Program established in Section 3 of this Act and in other matters relating to reading;***

(c) Collaborating with public and private institutions of postsecondary education and adult education providers to provide for teachers and administrators quality preservice and professional development ***relating to reading diagnostic assessments and intervention and to the essential components of successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and the connections between writing and reading acquisition and motivation to read***[~~in early reading instruction, including phonics instruction~~];

(d)[~~(c)~~]***Collaborating with the Kentucky Department of Education to assist***[~~Assisting~~] districts ***with students functioning at***[~~located in areas with~~] low levels of reading skills to assess and address identified literacy needs;

(e)[~~(d)~~]Providing professional development and coaching for ***early childhood educators and*** classroom teachers, including adult education teachers, implementing selected reliable, replicable research-based reading ***programs. The professional development shall utilize technology when appropriate***[~~models~~];

(f)[~~(e)~~] Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;

(g)[~~(f)~~] ***Maintaining***[~~Establishing~~] a demonstration and training site for early literacy located at each of the public universities; and

(h)[~~(g)~~] Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under KRS 164.041.

(2) ***The center shall review national research and disseminate appropriate research abstracts, when appropriate, as well as conduct ongoing research of reading programs throughout the state. Research activities undertaken by the center shall consist of descriptive as well as empirical studies.***

(a) The center may contract for research studies to be conducted on its behalf.

(b) The research agenda should, at a minimum, consider the impact of various reading and intervention programs:

1. In eliminating academic achievement gaps among students with differing characteristics, including subpopulations of students with disabilities, students with low socioeconomic status, students from racial minority groups, students with limited English proficiency, and students of different gender;

2. In schools with differing characteristics, such as urban versus rural schools, poverty versus nonpoverty schools, and schools in different geographic regions of the state;

3. In terms of their costs and effectiveness; and

4. In maintaining positive student progress over a sustained period of time.

(3) The center shall submit an annual report ***of***[~~on~~] its activities to the ***Kentucky Department of Education, the*** Governor, and the Legislative Research Commission no later than September 1 of each year.

(4)[~~(3)~~] With[~~ the~~] advice ***from***[~~of the Department of Adult Education and Literacy in the Cabinet for Workforce Development and~~] the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location***. The center, in conjunction with the council, shall establish goals and performance objectives related to the functions described in this section***[~~ and monitor the progress of the center~~].

Section 6. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) [~~Beginning in fiscal year 1999-2000, and ~~]Each fiscal year[~~ thereafter~~], three million dollars ($3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars ($1,200,000)[~~ in fiscal year 1999-2000 and each fiscal year thereafter~~]; and

(b) To the ***reading diagnostic and intervention***[~~ early reading incentive~~] fund, one million eight hundred thousand dollars ($1,800,000)[~~ in fiscal year 1999-2000 and each fiscal year thereafter~~].

(4) After the allocation of three million dollars ($3,000,000) to literacy development, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877:

1.[~~ Seven million dollars ($7,000,000) in fiscal year 1999-2000;~~
~~2. Fifteen percent (15%) in fiscal year 2000-2001;~~
~~3. Twenty-five percent (25%) in fiscal year 2001-2002;~~
~~4. Thirty-two percent (32%) in fiscal year 2002-2003;~~
~~5.~~] Forty percent (40%) in fiscal year 2003-2004; and
2[~~6~~]. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and

(b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:

1.[~~ Fourteen million dollars ($14,000,000) in fiscal year 1998-1999;~~
~~2. Fifteen million dollars ($15,000,000) in fiscal year 1999-2000;~~
~~3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;~~
~~4.~~] Forty percent (40%) in fiscal year 2003-2004;
2[~~5~~]. Forty-five percent (45%) in fiscal year 2004-2005; and
3[~~6~~]. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.

(5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:

(a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;

(b) A statement identifying the auditing firm;

(c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and

(d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 7. Whereas it is critical that the Department of Education, the Kentucky Board of Education, the Collaborative Center for Literacy Development, and the Reading Diagnostic and Intervention Early Grant Steering Committee arrive at decisions regarding revisions to administrative regulations and the distribution of grant applications to local school districts, and that technical assistance be provided to school districts in a timely manner before the start of the 2005-2006 school year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Committee Amendment No. 1 to **SB 19** is as follows:

On page 5, line 24, after "***effectiveness of***" by deleting the word "***approved***"

On page 5, line 24, after "***effectiveness of***" by deleting the word "***approved***"

Committee Amendment No. 2 to **SB 19** is as follows:

On page 7, line 23, after "***including***", by inserting "***cooperating with other entities that provide***"; and

On page 7, line 23, after "***literacy***" by inserting "***services***"

On page 7, line 23, after "***including***", by inserting "***cooperating with other entities that provide***"; and

On page 7, line 23, after "***literacy***" by inserting "***services***"

Committee Amendment No. 3 to **SB 19** is as follows:

On page 13, on line 23, by inserting the following after "Section 7.":

"KRS 200.703 is amended to read as follows:

(1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:

(a) Implementation of public health initiatives identified by the General Assembly;

(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;

(c) Voluntary immunization for children not covered by public or private health insurance;

(d) Availability of high-quality, affordable early child-care and education options; and

(e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.

(2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

(3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health Services; the Cabinet for Families and Children; the Education, Arts, and Humanities Cabinet; the Finance and Administration Cabinet; or other appropriate administrative agency.

(4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.

(5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Coordinate and improve early childhood development services, outcomes, and policies;

(b) Establish procedures that relate to its governance;

(c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;

(d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;

(e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and

(f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:

1. The financial management of funds paid to grantees;

2. The maintenance of records; and

3. An independent audit of the use of grant funds.

(6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

(7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.

(8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:

(a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or

(b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority, or any programs that had been funded by the authority with expenditures from the early childhood development fund.

(9) (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Families and Children; the Cabinet for Health Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.

(b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.

(10) The authority shall work with local entities, including, but not limited to, health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination. ***The authority shall provide that primary students, regardless of age, who are having difficulty with reading may be referred and receive a second vision examination as described in KRS 156.160 at no cost to the parent.***

(11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

Section 8."

On page 13, on line 23, by inserting the following after "Section 7.":

"KRS 200.703 is amended to read as follows:

(1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:

(a) Implementation of public health initiatives identified by the General Assembly;

(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;

(c) Voluntary immunization for children not covered by public or private health insurance;

(d) Availability of high-quality, affordable early child-care and education options; and

(e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.

(2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

(3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health Services; the Cabinet for Families and Children; the Education, Arts, and Humanities Cabinet; the Finance and Administration Cabinet; or other appropriate administrative agency.

(4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.

(5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Coordinate and improve early childhood development services, outcomes, and policies;

(b) Establish procedures that relate to its governance;

(c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;

(d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;

(e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and

(f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:

1. The financial management of funds paid to grantees;
2. The maintenance of records; and
3. An independent audit of the use of grant funds.

(6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

(7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.

(8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:

(a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or

(b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority, or any programs that had been funded by the authority with expenditures from the early childhood development fund.

(9) (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Families and Children; the Cabinet for Health Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.

(b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.

(10) The authority shall work with local entities, including, but not limited to, health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination. ***The authority shall provide that primary students, regardless of age, who are having difficulty with reading may be referred and receive a second vision examination as described in KRS 156.160 at no cost to the parent.***

(11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

Section 8."

The Committee on Education reported **SB 46** with Committee Substitute with expression of opinion that same should pass. Referred to the Committee on Rules.

The Committee Substitute to **SB 46** is as follows:

SB 46, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education~~[, Arts, and Humanities]~~ Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 11.182 is amended to read as follows:

(1) The membership of the commission shall consist of forty-eight (48) members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under KRS 11.180(1).

(a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Tourism Development Cabinet; secretary of the Cabinet for Families and Children; secretary of the Cabinet for Health Services; ***commissioner of the Department of Workforce Investment***~~[secretary of the Cabinet for Workforce Development]~~; secretary of the Education~~[, Arts, and Humanities]~~ Cabinet; commissioner of the Department of Agriculture; president of the Council on Postsecondary Education; president of the Kentucky Community and Technical College System; commissioner of the Department of Education; commissioner of the Department for Local Government; executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development; state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.

(b) Members appointed by the Governor shall be:

1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and member of the state's judicial branch, all of whom shall be currently serving in the Appalachian region of the Commonwealth. The members who are a representative, a senator, and a representative of the judicial branch shall serve in a nonvoting capacity;

2. Nine (9) at-large members; and

3. One (1) member representing the Community Action Agencies of Appalachian Kentucky.

(c) Members appointed by and representing certain entities shall be: two (2) members of the Kentucky Appalachian Advisory Council; one (1) member of the University of Kentucky Office of Management and Budget; one (1) member from the Christian Appalachian Project; one (1) member appointed by the United States Representative from the Fifth Congressional District; and one (1) member appointed by the East Kentucky Leadership Foundation's board of directors.

(2) Members listed in subsection (1)(a) and (b)1. of this section shall serve during their terms of office or appointment. Members listed in subsection (1)(b)2., (1)(b)3., and (1)(c) of this section shall serve four (4) year staggered terms and may be reappointed.

(3) Members of the commission who are not state employees shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.

(4) Each member of the commission may designate in writing over his signature an alternate with full authority, in the absence of the designating member for any reason, to attend any properly convened meeting of the commission and to participate in the consideration of any business and transactions of the commission. Any designation of an alternate may, in the discretion of the designating member, be limited to be effective only for a designated meeting or only for specified business. An alternate shall not be entitled to vote upon any business or transactions of the commission.

Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.

(e) Office of the Secretary.

(f) Offices of the Deputy Secretaries.

(g) Office of General Counsel.

(h) Division of Kentucky State Medical Examiners Office.

(i) Parole Board.

(j) Kentucky State Corrections Commission.

(k) Commission on Correction and Community Service.

2. Education[~~, Arts, and Humanities~~] Cabinet:

(a) ***Office of the Secretary.***

(b) Office of Legal Services.

1. Client Assistance Program.

(c) Office of Communication.

(d) Office of Legislative and Intergovernmental Affairs.

(e) Office of Budget and Administration.

1. Division of Human Resources.

2. Division of Administrative Services.

3. Division of Technology Services.

(f) Board of Directors for the Center for School Safety.

(g) Council on Postsecondary Education.

(h) Department of Education.

1. Kentucky Board of Education.

(i) Department for Libraries and Archives.

(j) Department of Workforce Investment.

1. Office for the Blind.

2. Office of Vocational Rehabilitation.

3. Office of Career and Technical Education.

4. Office of Employment and Training.

(k) Foundation for Adult Education.

(l) Foundation for Workforce Development.

(m) Kentucky Office for the Blind State Rehabilitation Council.

(n) Kentucky Technical Education Personnel Board.

(o) Kentucky Workforce Investment Board.

(p) Statewide Council for Vocational Rehabilitation.

(q) Statewide Independent Living Council.

(r) Unemployment Insurance Commission.

(s) Education Professional Standards Board.

  1. Division of Educator Preparation.

  2. Division of Certification.

  3. Division of Professional Learning and Assessment.

  4. Division of Legal Services.

(t) Governor's Scholars Program.

(u) Kentucky Commission on the Deaf and Hard of Hearing.

(v) Kentucky Educational Television.

(w) Kentucky Environmental Education Council.

(x) Martin Luther King Commission[~~Department of Education.~~

  ~~(1) Kentucky Board of Education.~~

~~(b) Department for Libraries and Archives.~~

~~(c) Kentucky Arts Council.~~

~~(d) Kentucky Educational Television.~~

~~(e) Kentucky Historical Society.~~

~~(f) Kentucky Teachers' Retirement System Board of Trustees.~~

~~(g) Kentucky Center for the Arts.~~

~~(h) Kentucky Craft Marketing Program.~~

~~(i) Kentucky Commission on the Deaf and Hard of Hearing.~~

~~(j) Governor's Scholars Program.~~

~~(k) Governor's School for the Arts.~~

~~(l) Operations and Development Office.~~

~~(m) Kentucky Heritage Council.~~

~~(n) Kentucky African-American Heritage Commission.~~

~~(o) Board of Directors for the Center for School Safety~~].

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of Legal Services.

(g) Office of Information Services.

(h) Office of Inspector General.

4. Transportation Cabinet:

(a) Department of Highways.

  1. Office of Program Planning and Management.

  2. Office of Project Development.

  3. Office of Construction and Operations.

  4. Office of Intermodal Programs.

  5. Highway District Offices One through Twelve.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Department of Human Resources Management.

(g) Office of the Secretary.

(h) Office of General Counsel and Legislative Affairs.

- (i) Office of Public Affairs.
- (j) Office of Transportation Delivery.
- (k) Office of Minority Affairs.
- (l) Office of Policy and Budget.
- (m) Office of Technology.
- (n) Office of Quality.
- (o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
   - (a) Department of Administration and Support.
   - (b) Department for Business Development.
   - (c) Department of Financial Incentives.
   - (d) Department of Community Development.
   - (e) Department for Regional Development.
   - (f) Tobacco Research Board.
   - (g) Kentucky Economic Development Finance Authority.
6. Environmental and Public Protection Cabinet:
   - (a) Public Service Commission.
   - (b) Department of Insurance.
   - (c) Department of Housing, Buildings and Construction.
   - (d) Department of Financial Institutions.
   - (e) Department of Mines and Minerals.
   - (f) Department of Public Advocacy.
   - (g) Department of Alcoholic Beverage Control.
   - (h) Kentucky Horse Racing Authority.
   - (i) Board of Claims.
   - (j) Crime Victims Compensation Board.
   - (k) Kentucky Board of Tax Appeals.
   - (l) Office of Petroleum Storage Tank Environmental Assurance Fund.
   - (m) Department of Charitable Gaming.
   - (n) Mine Safety Review Commission.
7. Cabinet for Families and Children:
   - (a) Department for Community Based Services.
   - (b) Department for Disability Determination Services.
   - (c) Public Assistance Appeals Board.
   - (d) Office of the Secretary.
     - (1) Kentucky Commission on Community Volunteerism and Service.
   - (e) Office of the General Counsel.
   - (f) Office of Program Support.
   - (g) Office of Family Resource and Youth Services Centers.
   - (h) Office of Technology Services.
   - (i) Office of the Ombudsman.
   - (j) Office of Human Resource Management.
8. Cabinet for Health Services.
   - (a) Department for Public Health.
   - (b) Department for Medicaid Services.
   - (c) Department for Mental Health and Mental Retardation Services.
   - (d) Kentucky Commission on Children with Special Health Care Needs.
   - (e) Office of Certificate of Need.

(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

9. Finance and Administration Cabinet:
   (a) Office of Financial Management.
   (b) Office of the Controller.
   (c) Department for Administration.
   (d) Department of Facilities Management.
   (e) State Property and Buildings Commission.
   (f) Kentucky Pollution Abatement Authority.
   (g) Kentucky Savings Bond Authority.
   (h) Deferred Compensation Systems.
   (i) Office of Equal Employment Opportunity Contract Compliance.
   (j) Office of Capital Plaza Operations.
   (k) County Officials Compensation Board.
   (l) Kentucky Employees Retirement Systems.
   (m) ***Kentucky Teachers' Retirement System Board of Trustees.***
   (n) Commonwealth Credit Union.
   (o)[~~(n)~~] State Investment Commission.
   (p)[~~(o)~~] Kentucky Housing Corporation.
   (q)[~~(p)~~] Governmental Services Center.
   (r)[~~(q)~~] Kentucky Local Correctional Facilities Construction Authority.
   (s)[~~(r)~~] Kentucky Turnpike Authority.
   (t)[~~(s)~~] Historic Properties Advisory Commission.
   (u)[~~(t)~~] Kentucky Tobacco Settlement Trust Corporation.
   (v)[~~(u)~~] Eastern Kentucky Exposition Center Corporation.
   (w)[~~(v)~~] State Board for Proprietary Education.
10. Labor Cabinet:
   (a) Department of Workplace Standards.
   (b) Department of Workers' Claims.
   (c) Kentucky Labor-Management Advisory Council.
   (d) Occupational Safety and Health Standards Board.
   (e) Prevailing Wage Review Board.
   (f) Workers' Compensation Board.
   (g) Kentucky Employees Insurance Association.
   (h) Apprenticeship and Training Council.
   (i) State Labor Relations Board.
   (j) Kentucky Occupational Safety and Health Review Commission.
   (k) Office of Administrative Services.
   (l) Office of Information Technology.
   (m) Office of Labor-Management Relations and Mediation.
   (n) Office of General Counsel.
   (o) Workers' Compensation Funding Commission.
   (p) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
   (a) Department of Property Valuation.
   (b) Department of Tax Administration.

(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.

13.[~~ Cabinet for Workforce Development:~~
~~(a) Department for Adult Education and Literacy.~~
~~(b) Department for Technical Education.~~
~~(c) Department of Vocational Rehabilitation.~~
~~(d) Department for the Blind.~~
~~(e) Department for Employment Services.~~
~~(f) Kentucky Technical Education Personnel Board.~~
~~(g) The Foundation for Adult Education.~~
~~(h) Department for Training and Reemployment.~~
~~(i) Office of General Counsel.~~
~~(j) Office of Communication Services.~~
~~(k) Office of Workforce Partnerships.~~
~~(l) Office of Workforce Analysis and Research.~~
~~(m) Office of Budget and Administrative Services.~~
~~(n) Office of Technology Services.~~
~~(o) Office of Quality and Human Resources.~~
~~(p) Unemployment Insurance Commission.~~
~~14.~~] Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2.[~~ Council on Postsecondary Education.~~
~~3.~~] Department for Local Government.
3.[~~4.~~] Kentucky Commission on Human Rights.

4.[~~5.~~] Kentucky Commission on Women.
5.[~~6.~~] Department of Veterans' Affairs.
6.[~~7.~~] Kentucky Commission on Military Affairs.
7.[~~8.~~] The Governor's Office for Technology.
8.[~~9.~~] Commission on Small Business Advocacy.
[~~10. Education Professional Standards Board.~~]

Section 4. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:
(1)[~~ Council on Postsecondary Education;~~
~~(2)~~] Department of Military Affairs;
(2)[~~(3)~~] Department for Local Government;
(3)[~~(4)~~] Kentucky Commission on Human Rights;
(4)[~~(5)~~] Kentucky Commission on Women;
(5)[~~(6)~~] Kentucky Commission on Military Affairs;
(6)[~~(7)~~] Kentucky Coal Council;
(7)[~~(8)~~] Governor's Office of Child Abuse and Domestic Violence Services;
(8)[~~(9)~~] Governor's Office for Technology;
(9)[~~(10)~~] Office of Coal Marketing and Export;
(10)[~~(11)~~] Agricultural Development Board;
(11)[~~(12)~~] Commission on Small Business Advocacy;
[~~(13) Office of Early Childhood Development;~~]
(12)[~~(14)~~] Kentucky Agency for Substance Abuse Policy;
[~~(15) Education Professional Standards Board;~~] and
(13)[~~(16)~~] Kentucky Agricultural Finance Corporation.

Section 5. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:
(1) Justice Cabinet.
(2) Education[~~, Arts, and Humanities~~] Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6) Public Protection and Regulation Cabinet.
(7) Cabinet for Health Services.
(8) Cabinet for Families and Children.
(9) Finance and Administration Cabinet.
(10) Tourism Development Cabinet.
(11) Revenue Cabinet.
(12) Labor Cabinet.
(13)[~~ Cabinet for Workforce Development.~~
~~(14)~~] Personnel Cabinet.

Section 6. KRS 12.332 is amended to read as follows:

KY-ASAP shall:
(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;
(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;
(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to

ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. KY-ASAP shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) Observe programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Department of Agriculture, the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education~~[, Arts, and Humanities]~~ Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) Promulgate any administrative regulations necessary to implement KRS 12.330 to 12.334; and

(20) Report to the Legislative Research Commission and Governor by October 1, 2000, regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 7. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet
  1. Higher Education Assistance Authority
    a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
    b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) Cabinet for Health Services
  1. Office of Certificate of Need
    a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
    b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for Families and Children
  1. Department for Community Based Services
    a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
  2. Department for Disability Determination Services
    a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet
  1. Department of State Police
    a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
  2. Department of Corrections
    a. Parole Board hearings conducted under authority of KRS Chapter 439
    b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
    c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
  3. Department of Juvenile Justice
    a. Supervised placement revocation hearings conducted under KRS Chapter 635

(e) Labor Cabinet
  1. Department of Workers' Claims
    a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f) Natural Resources and Environmental Protection Cabinet
  1. Department for Surface Mining Reclamation and Enforcement
    a. Surface mining hearings conducted under authority of KRS Chapter 350
  2. Department for Environmental Protection

a. Wild River hearings conducted under authority of KRS Chapter 146

b. Water resources hearings conducted under authority of KRS Chapter 151

c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223

d. Environmental protection hearings conducted under authority of KRS Chapter 224

(g) Kentucky Occupational Safety and Health Review Commission

1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(h) Public Protection and Regulation Cabinet

1. Board of Claims

a. Liability hearings conducted under authority of KRS Chapter 44

2. Public Service Commission

a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(i) ***Education*** Cabinet[~~ for Workforce Development~~]

1.[~~ Department for Employment Services~~

~~a.~~] Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(j) Secretary of State

1. Registry of Election Finance

a. Campaign finance hearings conducted under authority of KRS Chapter 121

(k) State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164

2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164

3. Campus residency hearings conducted under authority of KRS Chapter 164

4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 8. KRS 163.460 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "***Office***[~~Department~~]" means the ***Office***[~~Department~~] for the Blind.

(2) "Legally blind" means a visual acuity of 20/200 or less in the better eye with correction or a visual field of 20 degrees or less.

(3) "Visually impaired" means a condition of the eye with correction which constitutes or progressively results for the individual in a substantial disability to employment.

(4) "Executive director" means the executive director of the ***Office***[~~Department~~] for the Blind.

Section 9. KRS 163.470 is amended to read as follows:

(1) There is created within the ***Education*** Cabinet[~~ for Workforce Development~~] the ***Office***[~~Department~~] for the Blind.

(2) The ***executive director***[~~commissioner~~] shall be appointed by[~~ the Governor upon the recommendation of~~] the secretary of the ***Education*** Cabinet ***pursuant to KRS 12.050***[~~ for Workforce Development~~] to whom he ***or she*** shall be directly responsible.

(3) The ***office***[~~department~~] shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The ***office***[~~department~~] shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the commissioner.

(4) (a) The Kentucky ***Office***[~~Department~~] for the Blind State Rehabilitation Council is hereby created and established to accomplish the purposes and functions enumerated in the Rehabilitation Act of 1973, as amended. Members of the council shall be appointed by the Governor from recommendations submitted by the Department for the Blind consistent with the federal mandate to include a majority of individuals who are blind or visually impaired representing specified organizations, service providers, and advocacy groups. The composition, qualifications, and terms of service of the council shall conform to those prescribed by the federal law. There shall be statewide representation on the council.

(b) 1. Except as provided in subparagraph 2. of this paragraph, any vacancy occurring in the membership of the ***Office***[~~Department~~] for the Blind State Rehabilitation Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.

2. The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(c) Each member of the ***Office***[~~Department~~] for the Blind State Rehabilitation Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Kentucky Department for the Blind State Rehabilitation Council. The per diem and expenses shall be paid out of the federal funds appropriated under the Rehabilitation Act of 1973, as amended.

(5) The ***office***[~~department~~] shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(6) At the close of each biennium, the ***office***[~~department~~] shall prepare a financial report and present it to the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] and to the Governor. The biennial report shall be published. The biennial report shall also contain a precise review of the work of the ***office***[~~department~~] and contain necessary suggestions for improvement.

(7) The ***office***[~~department~~] shall coordinate its functions with other appropriate public and private agencies.

(8) The ***office***[~~department~~] shall perform all other duties as required of it by law.

(9) The ***executive director***[~~commissioner~~] shall hire personnel as necessary to carry out the work of the ***office***[~~department~~] and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons.

(10) There shall be created under the authority of the ***office***[~~department~~], to be directed by ***a director appointed by the secretary of the Education Cabinet pursuant to KRS 12.050***[~~the commissioner~~], a Division of ***Consumer***[~~Client~~] Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, independent living, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.

(11) There shall be established under the authority of the ***office***[~~department~~] to be directed by ***a director appointed by the secretary pursuant to KRS 12.050***[~~the commissioner~~], ***the***[~~a~~] Division of ***Kentucky*** Business ***Enterprise***[~~Enterprises~~]. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the ***office***[~~department~~] shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The ***Office***[~~Department~~] for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a

vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(12) ***The Office for the Blind***[~~There shall be established under authority of the department, to be directed by the commissioner, a Division of Industries for the Blind which shall provide industrial evaluation, training, and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind. The Division of Industries for the Blind shall be abolished, effective July 1, 2000. The department~~], at all times, shall be authorized to provide industrial evaluation, training, and employment. [

~~(13)~~]The ***office***[~~department~~] shall provide staff services which shall include[~~ fiscal management,~~] staff development and training, program development and evaluation,[~~ public information office,~~] and other staff services as may be deemed necessary.

(13)[~~(14)~~] The provisions of any other statute notwithstanding, the ***executive director***[~~commissioner~~] is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

Section 10. KRS 163.475 is amended to read as follows:

(1) The General Assembly finds that the provision of industrial evaluation, training, and employment opportunities for individuals who are blind or visually impaired is a valuable and necessary component of vocational rehabilitation services. The ***Office***[~~Department~~] for the Blind has sole responsibility for and the obligation to operate and manage a Division of the Kentucky Industries for the Blind. This facility has struggled to meet these mandates but, faced with declining available state revenues, expects a continual diminishment to a submarginal operation with respect to providing viable long-term employment opportunities that are self-sustaining and sufficiently diversified for individuals who are blind or visually impaired.

(2) The General Assembly finds that increased flexibility in contract negotiation, purchasing, and hiring will enhance the competitiveness of the Kentucky Industries for the Blind, resulting in additional production contracts thereby guaranteeing continued and expanded jobs and other opportunities for individuals who are blind or visually impaired. This flexibility and competitiveness can be achieved through the operation of the Kentucky Industries for the Blind by a nonprofit corporation, the members of which have expertise in management skills and background pertaining to sound business practices and rehabilitation philosophy.

(3) The General Assembly finds that a transition period from state division to a nonprofit operation is necessary to ensure the success and continuation of the important functions of the Kentucky Industries for the Blind. Therefore, the General Assembly shall continue to support the Division of the Kentucky Industries for the Blind through appropriations to the ***Office***[~~Department~~] for the Blind for six (6) years in order to eliminate eventually the necessity for annual state appropriations. The ***Office***[~~Department~~] for the Blind shall monitor and safeguard the expenditure of those public moneys for the use and benefit of the Kentucky Industries for the Blind and citizens who are blind and visually impaired in the Commonwealth.

(4) The General Assembly finds that the continued employment of current employees of the Division of the Kentucky Industries for the Blind is a necessary and important outcome. The ***Office***[~~Department~~] for the Blind shall ensure through contractual provisions that the nonprofit corporation it contracts with pursuant to KRS 163.480(2) offers employment to every employee of the Kentucky Industries for the Blind at the time the nonprofit corporation assumes total responsibility for the operation of the workshop. The ***Office***[~~Department~~] for the Blind shall maximize the retirement benefits for each current employee of the Division of Kentucky Industries for the Blind at the time the department contracts for total operation by the nonprofit corporation through the parted employer provisions of KRS 61.510 to 61.705.

(5) The General Assembly finds that at the time the Kentucky Industries for the Blind is operated totally by the nonprofit corporation, the ***Office***[~~Department~~] for the Blind shall have the authority to convey ownership of the workshop to any nonprofit corporation with which it contracts pursuant to KRS 163.480(2) without financial consideration, including real and personal property, inventory of materials, and stores for resale. The instrument of conveyance to such nonprofit corporation shall provide that the real property and production equipment conveyed, or sufficient remuneration therefor, shall revert to the state at any time the nonprofit corporation or its successor shall cease operating the Kentucky Industries for the Blind for the benefit of individuals who are blind or visually impaired.

Section 11. KRS 163.480 is amended to read as follows:

(1) The ***Office***[~~Department~~] for the Blind may contract, to the extent funds are available under this chapter and under conditions and standards established by the department, with any nonprofit corporation able to provide expertise in the operation of workshops for and rehabilitation of individuals who are blind or visually impaired and whose objectives are to carry out the purposes of KRS 163.470***(12)***[~~(13)~~].

(2) The ***Office***[~~Department~~] for the Blind ***may***[~~shall~~] contract with a nonprofit corporation[~~, effective July 1, 2000,~~] to provide

industrial evaluation, training, and employment opportunities for individuals who are blind or visually impaired[~~, as previously provided by the Division of Kentucky Industries for the Blind~~].

Section 12. KRS 163.487 is amended to read as follows:

As used in KRS 163.485 to 163.489, unless the context requires otherwise:

(1) "Accessible electronic information service" means news and other timely information, including but not limited to magazines, newsletters, schedules, announcements, and newspapers, provided to eligible individuals using high-speed computers, radios, and telecommunications technology for acquisition of content and rapid distribution in a form appropriate for use by those individuals; and

(2) "Blind and disabled persons" means those individuals who are eligible for library loan services through the Library of Congress and the ***Office***[~~Department~~] for the Blind pursuant to 36 C.F.R. sec. 701.10(b).

Section 13. KRS 163.489 is amended to read as follows:

(1) The Accessible Electronic Information Service Program is created and shall be provided by the ***Office***[~~Department~~] for the Blind. The program shall include:

- (a) Intrastate access for eligible persons to read audio editions of newspapers, magazines, newsletters, schedules, announcements, and other information using a touch-tone telephone, radio, or other technologies that produce audio editions by use of computer; and
- (b) A means of program administration and reader registration on the Internet, or by mail, telephone, or any other method providing consumer access.

(2) The program shall:

- (a) Provide accessible electronic information services for all eligible blind and disabled persons as defined by KRS 163.487(2);
- (b) Make maximum use of available state, federal, and other funds by obtaining grants or in-kind support from appropriate programs and securing access to low-cost interstate rates for telecommunications by reimbursement or otherwise.

(3) The ***Office***[~~Department~~] for the Blind shall review new technologies and current service programs in Kentucky for the blind and visually impaired that are available to expand audio communication if the department determines that these new technologies will expand access to consumers in a cost-efficient manner. The department may implement recommendations from the Department for the Blind State Rehabilitation Council for improving the program.

Section 14. KRS 163.506 is amended to read as follows:

(1) The Commission on the Deaf and Hard of Hearing shall consist of:

- (a) Seven (7) members appointed by the Governor as follows:
  - 1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;
  - 2. Three (3) hard of hearing or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;
  - 3. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;
  - 4. One (1) hard of hearing or deaf person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term; and
  - 5. One (1) deaf, late-deafened, or hard of hearing person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;
- (b) One (1) representative of the Cabinet for Health Services appointed by the secretary;
- (c) One (1) representative of the Cabinet for Families and Children appointed by the secretary;
- (d) The secretary of the Education[~~, Arts, and Humanities~~] Cabinet or his ***or her*** designee;
- (e) The president of the Kentucky Association for the Deaf or his ***or her*** designee;
- (f) The president of the Kentucky Registry of Interpreters for the Deaf or his ***or her*** designee; and
- (g) Three (3) persons appointed by the Commission on the Deaf and Hard of Hearing as constituted in subsections (1)(a) through (1)(f) of this section, appointed as follows:
  - 1. One (1) parent of a hard of hearing or deaf child;
  - 2. One (1) representative of a public or private organization providing consistent services to the deaf and hard of hearing; and
  - 3. One (1) member at large.

(2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of

office. Of the members appointed pursuant to subsection (1)(a)2. through (1)(a)5. and subsection (1)(g) of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.

(3) Each member of the commission shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

Section 15. KRS 171.312 is amended to read as follows:

In order to better facilitate the operation and management, the Kentucky Historical Society shall be organized into four (4) separate divisions. These divisions shall include: Research and Publications; Oral History and Educational Outreach; Administration; and Museums. The divisions shall be headed by a director appointed by the Executive Committee of the Kentucky Historical Society of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet pursuant to KRS 171.311.

Section 16. KRS 171.3801 is amended to read as follows:

(1) There is established the Kentucky Heritage Council (hereinafter referred to as "the council") which shall perform the functions specified in KRS 171.381.

(2) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the preservation and protection of Kentucky's heritage. On or before September 15, 1982, the Governor shall appoint not more than four (4) members for a term of one (1) year, not more than four (4) members for a term of two (2) years, not more than four (4) members for a term of three (3) years, and not more than four (4) members for a term of four (4) years. Thereafter, the Governor shall make all appointments for a term of four (4) years.

(3) Council members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(4) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(5) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(6) The council shall be attached to the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet for administrative purposes.

(7) The Heritage Council shall include a heritage division, whose duties shall include providing staff services needed by the Heritage Council in order to perform its duties under KRS 171.381, including but not limited to preserving and protecting buildings, sites and other landmarks associated with the archaeological, cultural, economic, military, national, political and social aspects of Kentucky's history.

(8) The heritage division shall be headed by a director appointed by the Governor from a list of three (3) nominees submitted by the Heritage Council; and the Heritage Council and the heritage division shall not be subject to reorganization.

Section 17. KRS 171.381 is amended to read as follows:

(1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(2) The duties and functions of the council shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

(3) The council may:

(a) Accept grants or other funds or property from any available source, public or private;

(b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;

(c) Enter into such contractual relationships as may be necessary;

(d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and

(f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

(4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet. The director of the Heritage Division shall be the state historic preservation officer.

(7) The responsibilities of the state historic preservation officer shall include:

(a) Development for the State Historic Preservation Program;

(b) Direction of a comprehensive statewide survey of historic properties;

(c) Nomination of historic properties to the National Register of Historic Places;

(d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;

(e) Cooperation in the integration of historic preservation planning with all levels of planning;

(f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;

(g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;

(h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;

(i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;

(j) Development and operation of a program of public information and education concerning the preservation program;

(k) Administration of the grants program within the state;

(l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and

(m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 18. KRS 171.420 is amended to read as follows:

The State Archives and Records Commission, is hereby created and shall be a seventeen (17) member body constituted as follows: The state librarian or his designee, who shall be the chairman of the commission, secretary of the Education~~[, Arts, and Humanities]~~ Cabinet or his ***or her*** designee, the Auditor of Public Accounts or his ***or her*** designee, the Chief Justice of the Supreme Court or his ***or her*** designee, the director of the Legislative Research Commission or his ***or her*** designee, the Attorney General or his ***or her*** designee, the director of the Office for Policy and Management or his ***or her*** designee, the chief information officer or ***his or*** her~~[or his]~~ designee, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association, one (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, four (4) citizens at large, and one (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. The commission shall advise the Department for Libraries and Archives on matters relating to archives and records management. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

Section 19. KRS 171.800 is amended to read as follows:

(1) The Kentucky African-American Heritage Commission is hereby established to perform the functions specified in KRS 171.805.

(2) The membership of the commission shall consist of three (3) ex officio members and seventeen (17) members who derive from geographically diverse areas of the state and who represent various heritage interests as follows:

  (a) The secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet, or the secretary's designee to serve ex officio;

  (b) The president of Kentucky State University, or the president's designee to serve ex officio;

  (c) The director of the Kentucky Heritage Council, or the director's designee to serve ex officio;

  (d) Four (4) members from institutions of higher education;

  (e) One (1) member from the preservation community;

  (f) One (1) member from the arts community; and

  (g) Eleven (11) members from the public-at-large.

(3) Appointed members shall be appointed by the Governor and shall serve for terms of four (4) years. Any vacancies shall be filled by appointment of the Governor for the remainder of the unexpired term.

(4) Commission members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(5) From the commission membership, the Governor shall appoint a chairman and a vice chairman of the commission. The commission may elect by majority vote other officers deemed necessary.

(6) The commission shall meet at the call of the chairman, but not less often than three times during each calendar year. A majority of the members appointed to the commission shall constitute a quorum.

(7) The commission shall be attached to the Kentucky Heritage Council for administrative purposes.

(8) The commission may accept grants or raise funds from any available source, public or private, to accomplish its duties and responsibilities. Committees may be formed at the discretion of the chairman.

(9) The African-American Heritage Program is established as a branch within the Kentucky Heritage Division, whose responsibilities shall include providing staff services needed to perform its duties under KRS 171.805.

Section 20. KRS 171.805 is amended to read as follows:

(1) The Kentucky African-American Heritage Commission shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's African-American heritage.

(2) The duties and functions of the commission shall be to:

  (a) Advise the secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet and agencies within the cabinet on matters relating to African-American heritage.

  (b) Encourage other public and private agencies within the areas of the arts, the humanities, and the sciences to incorporate the African-American influence when developing programs on the history and heritage of Kentucky.

  (c) Represent a network of groups and individuals interested or involved in promoting awareness of African-American heritage in Kentucky.

  (d) Advocate the preservation, conservation, and interpretation of significant buildings, sites, neighborhoods, documents, artifacts, and lifeways that represent and embody African-American heritage.

  (e) Recognize and sanction projects which advance wider knowledge of African-Americans' impact on life in Kentucky.

  (f) Coordinate an initiative to protect, preserve, and promote the history of the Underground Railroad in Kentucky, in accordance with KRS 171.812.

Section 21. KRS 171.812 is amended to read as follows:

The commission shall coordinate Kentucky's Underground Railroad initiative in accordance with KRS 171.805. The commission's duties as they relate to this initiative shall include but not be limited to the following:

(1) Undertake a comprehensive statewide inventory of historic sites related to the Underground Railroad, and implement a master plan for site protection and development;

(2) Encourage and assist the state preservation officer within the Kentucky Heritage Council to nominate significant historical sites of the Kentucky Underground Railroad to the national and state registers of historic places;

(3) Develop and operate, in conjunction with the Tourism Development Cabinet, a program of public information, education, and promotion of the history of the Underground Railroad in Kentucky, to include but not be limited to implementing and maintaining a website connected to the Tourism Development Cabinet;

(4) Coordinate with local, state, and federal authorities in project planning that may affect Underground Railroad sites in

Kentucky and neighboring states;

(5) Consider the council's recommendations and, contingent on review by the council, present to the secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet an annual report and plan for future action; and

(6) Pursue public and private funds to carry out the duties set forth in this section.

Section 22. KRS 171.814 is amended to read as follows:

An Underground Railroad Advisory Council shall be established within the commission.

(1) The council shall consist of thirteen (13) members, as follows:

(a) Secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet, or designee;

(b) Secretary of the Tourism Development Cabinet, or designee;

(c) Secretary of the Transportation Cabinet, or designee;

(d) Director of the Kentucky Historical Society, or designee;

(e) State historic preservation officer of the Kentucky Heritage Council, or designee;

(f) Chair of the commission or designee;

(g) Director of the Underground Railroad Institute at Georgetown College, or designee;

(h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;

(i) Two (2) at-large representatives who hold an interest in the protection, preservation, and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor;

(j) One (1) member of the board or staff of the National Underground Railroad Freedom Center who resides within a county of the Northern Kentucky Area Development District; and

(k) One (1) member of the board or staff of the National Underground Railroad Museum who resides within a county of the Buffalo Trace Area Development District.

(2) The duties of the council shall be to:

(a) Advise and assist the commission with respect to issues and opportunities related to the Underground Railroad; and

(b) Annually review and make recommendations to the commission on the annual report and plan for future action.

(3) Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.

(4) The chair of the commission shall serve as chair of the council.

(5) The council shall meet annually or more frequently at the request of the chair.

(6) Six (6) members shall constitute a quorum for conducting business.

(7) In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.

(8) Members of the council shall serve without compensation.

Section 23. KRS 171.816 is amended to read as follows:

The ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet shall be charged with the purpose of protecting, preserving, and promoting the history of the Underground Railroad in Kentucky in accordance with KRS 171.805 and 171.810 to 171.814. The secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet shall receive an annual report from the Kentucky African-American Heritage Commission in accordance with KRS 171.812(5), and shall review and submit the annual report to the Governor and the Legislative Research Commission for distribution to the appropriate committees.

Section 24. KRS 171.820 is amended to read as follows:

(1) The Kentucky Native American Heritage Commission is hereby established to promote, in partnership with the ***Commerce***~~[Education, Arts and Humanities]~~ Cabinet, awareness of significant Native American influences within the historical and cultural experiences of Kentucky.

(2) The membership of the commission shall consist of seventeen (17) members who derive from geographically diverse areas of the state and who represent various heritage interests as follows:

(a) The secretary of the ***Commerce***~~[Education, Arts and Humanities]~~ Cabinet, or the secretary's designee;

(b) Three (3) members from institutions of higher learning;

(c) Two (2) members from the preservation or archeological communities;

(d) One (1) member from the arts community; and

(e) Ten (10) members from the public at large, eight (8) of whom shall be of Native American heritage.

(3) Members listed in paragraphs (b) to (e) of subsection (2) of this section shall be appointed by the Governor and shall serve

for terms of four (4) years. Any vacancy shall be filled by appointment of the Governor for the remainder of the unexpired term.

(4) Commission members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(5) From the commission membership, the Governor shall appoint a chair and vice chair of the commission. The commission may elect by majority vote other officers deemed necessary.

(6) The commission shall meet at least three (3) times per year. Notice of the time and location of each meeting shall be provided in writing to each member at least ten (10) days in advance of the meeting.

(7) A majority of the members present shall constitute a quorum.

(8) Committees may be formed at the discretion of the chair.

(9) The commission may seek and accept grants or raise funds from any available source, public or private, to accomplish its duties and responsibilities.

(10) The commission shall be attached for administrative purposes to the Kentucky Heritage Council, whose responsibilities shall include but not be limited to designating a staff person to coordinate commission staff needs and providing other staff and services as needed for the commission to perform its duties under KRS 171.822.

Section 25. KRS 171.822 is amended to read as follows:

The duties of the Kentucky Native American Heritage Commission shall be to:

(1) Advise the ***Commerce***~~[Education, Arts and Humanities]~~ Cabinet, the Kentucky Heritage Council, and the Kentucky General Assembly on matters relating to Native American heritage;

(2) Encourage other public and private agencies within the areas of the arts, humanities, and sciences to incorporate the Native American influence when developing programs on the history and heritage of Kentucky;

(3) Represent a network of groups and individuals interested, or actively involved, in promoting awareness of Native American heritage in Kentucky;

(4) Support the preservation, conservation, and interpretation of significant buildings, sites, structures, documents, artifacts, and lifestyles that represent and embody Native American heritage; and

(5) Recognize and sanction projects that advance wider knowledge of Native Americans' contributions to, and influence and impact on, life in Kentucky.

Section 26. KRS 177.109 is amended to read as follows:

The Transportation and Tourism Interagency Committee shall have, but not be limited to, the following duties and responsibilities:

(1) Review Kentucky's signage laws, administrative regulations, and policies implementing the federal "Manual on Uniform Traffic Control Devices" and submit any proposed revisions to the secretary of the Transportation Cabinet;

(2) Seek public comment on Kentucky's signage laws, administrative regulations, and policies;

(3) Advise the Transportation Cabinet on the scenic byways and highways program;

(4) Review and make recommendations on requests for highway signage from tourism-related entities;

(5) Coordinate development of the tourism information potential of welcome centers and rest areas through such means as interactive videos, information kiosks, and highway advisory radio transmitters, as well as other innovative methods which may be identified by the committee;

(6) Monitor developments across the United States relating to billboards and official signs;

(7) Report to the secretary of the Transportation Cabinet and to the secretary of the Tourism Development Cabinet on issues of mutual interest to the cabinets;

(8) Serve as an advisory committee on issues identified by the secretary of the Transportation Cabinet and secretary of the Tourism Development Cabinet; and

(9) Report committee recommendations to the secretary of the Transportation Cabinet, the secretary of the Tourism Development Cabinet, the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet, and the secretary of the Executive Cabinet.

Section 27. KRS 186.576 is amended to read as follows:

As used in KRS 186.576 to 186.579:

(1) "Applicant" means any person applying for an instruction permit or an operator's license who must use a bioptic telescopic device in order to operate a motor vehicle;

(2) "Binocular vision" means visual acuity that is 20/200 or better in both eyes, with or without corrective lenses;

(3) "Bioptic telescopic device" means a two (2) focus optical system used to magnify distant objects by including a small telescope that is mounted in a spectacle lens in a manner to allow an unobstructed view of the horizontal visual field through a person's normal distance corrective lens;

(4) "Certified driver training program" means a program that provides and coordinates comprehensive assessment and training of driving skills and responses that emphasizes the vision, hearing, psychological, perceptual, orientation, and mobility skills of an applicant and that is certified by the department;

(5) "Combined visual acuity" means visual acuity attained by using both eyes together where a person has binocular vision;

(6) "Corrective lenses" means eyeglasses, contact lenses, and intraocular lenses, but does not mean a bioptic telescopic device;

(7) "Daytime driving restriction" means operation of a motor vehicle is restricted to the period of time from between thirty (30) minutes after sunrise and thirty (30) minutes before sunset. Under this restriction, driving during adverse weather conditions that significantly reduce the visibility of the roadway, other traffic, and traffic control devices shall be prohibited;

(8) "***Office***~~[Department]~~" means the ***Office***~~[Department]~~ for the Blind;

(9) "Monocular vision" means visual acuity that is 20/200 or better in only one (1) eye, with or without corrective lenses;

(10) "Restricted out-of-state driver" means a person who has been issued, by another state, a valid operator's license with a restriction requiring the use of a bioptic telescopic device;

(11) "Vision specialist" means a licensed ophthalmologist or optometrist;

(12) "Visual acuity" means the measure of a person's visual acuity based on the Snellen visual acuity scale; and

(13) "Visual field" means the area of physical space visible to the eye in a given fixed position.

Section 28. KRS 186.578 is amended to read as follows:

(1) Applicants accepted to participate in a certified driver training program shall meet the following minimum vision requirements:

(a) A distance visual acuity of 20/200 or better, with corrective lenses, in the applicant's better eye;

(b) A visual field of at least one hundred twenty (120) degrees horizontally and eighty (80) degrees vertically in the same eye as used in paragraph (a) of this subsection;

(c) A distance visual acuity of 20/60 or better using a bioptic telescopic device; and

(d) No ocular diagnosis or prognosis that indicates a likelihood that significant deterioration of visual acuity or visual field to levels below the minimum standards outlined in this subsection will occur.

(2) Upon acceptance into a certified driver training program, an applicant shall be given an examination to test his or her knowledge of the motor vehicle laws of the Commonwealth. This examination may be taken orally. Upon successful completion of this examination, the applicant shall be issued a temporary instruction permit, that shall be valid only when the applicant is accompanied by an employee of a certified driver training program. Temporary instruction permits issued under this section shall be valid for one (1) year from the date of issue.

(3) An applicant who successfully completes a certified driver training program shall be reexamined by a vision specialist upon completion of the program. The examination shall certify that the applicant continues to meet the visual acuity and visual field standards set forth in subsection (1) of this section.

(4) An applicant who successfully completes a certified driving training program and passes the visual reexamination required by subsection (3) of this section shall be eligible to take a comprehensive operator's license examination administered by the State Police. The operator's license examination shall include testing of the applicant's driving skills over a route specifically designed to test the applicant's competency using a bioptic telescopic device.

(5) An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall be required to take and pass a temporary instruction permit examination before being eligible to take the operator's license examination. An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall not be required to complete a certified driver training program, but shall be required to take and pass the visual examination outlined in subsection (3) of this section before taking the operator's license examination.

(6) If an applicant or restricted out-of-state driver fails the operator's license examination three (3) times, he or she shall not be eligible to retake the examination until successfully completing additional training from a certified driver training program and obtaining an affidavit from the program director recommending that the applicant or restricted out-of-state driver be allowed to retake the examination.

(7) The ***Office***~~[Department]~~ for the Blind shall promulgate administrative regulations in accordance with KRS Chapter 13A to set standards for a certified driver training program and to otherwise carry out the provisions of this section.

Section 29. KRS 194A.135 is amended to read as follows:

(1) The Kentucky Council on Developmental Disabilities is created within the cabinet.

(2) The Kentucky Council on Developmental Disabilities is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.

(3) The members of the Kentucky Council on Developmental Disabilities shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) members.

(a) Ten (10) members shall be representatives of: the principal state agencies administering funds provided under the

Rehabilitation Act of 1973 as amended; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA); the state agency that administers funds provided under the Older Americans Act of 1965 as amended; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; and the protection and advocacy system established under Public Law 101-496. These members shall represent the following:

1. ***Office of***~~[Department for]~~ Vocational Rehabilitation;
2. ***Office***~~[Department]~~ for the Blind;
3. Division of Exceptional Children, within the Department of Education;
4. Office of Aging Services;
5. Department for Medicaid Services;
6. Department of Public Advocacy, Protection and Advocacy Division;
7. University-affiliated programs;
8. Local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities;
9. Department for Mental Health and Mental Retardation Services; and
10. Department for Public Health, Division of Adult and Child Health.

(b) At least sixty percent (60%) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 as amended and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) members shall be persons with developmental disabilities, and five (5) members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and at least one (1) of these members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution.

(c) Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause.

(d) The council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The cabinet shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be responsible for the recruitment and hiring of a new executive director.

(4) The Kentucky Council on Developmental Disabilities shall:

(a) Develop, in consultation with the cabinet, and implement the state plan as required by Part B of the Developmental Disabilities Act of 1984, as amended, with a goal of development of a coordinated consumer and family centered focus and direction, including the specification of priority services required by that plan;

(b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives;

(c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities;

(d) Submit to the secretary of the cabinet, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the cabinet finds necessary to verify the reports;

(e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;

(f) Examine, not less than once every five (5) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and

(g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.

Section 30. KRS 194B.110 is amended to read as follows:

(1) The Kentucky Commission on Human Services Collaboration is hereby created and is attached to the Cabinet for Families and Children for administrative purposes. The commission shall develop, adopt, and amend, as appropriate, a service coordination plan to promote health, education, and social services partnerships of public and private agencies. The commission shall coordinate, evaluate, and provide technical assistance in implementing the service coordination plan.

(2) The commission shall coordinate and facilitate development of community partnership strategic plans, which are designed to implement the service coordination plan.

(3) The commission shall coordinate and facilitate development of outcomes to be achieved by community partnerships as outlined in the service coordination plan and report on progress toward achieving results.

(4) The commission shall also work to increase the efficiency and effectiveness of services to individuals, families and children through the identification and elimination of duplicative boards and commissions, which exercise overlapping responsibilities, and the identification of gaps in and barriers to the provision and receipt of human services. The commission shall provide technical assistance to communities.

(5) The commission shall report to the Legislative Research Commission and the General Assembly by October 1 of each year on the following:

(a) The coordination plan;
(b) The community partnership strategic plans;
(c) The increase in the efficiency and effectiveness of services;
(d) The boards and commissions eliminated;
(e) The boards and commissions identified as duplicative; and
(f) The identified gaps and barriers to provision and receipt of human services.

(6) The commission shall consist of the following members:

(a) The Governor's designee;
(b) The secretary of the Cabinet for Families and Children;
(c) The secretary for the Cabinet for Health Services;
(d) The secretary of the Cabinet of Economic Development;
(e) The secretary of the Justice Cabinet;
(f) The secretary of ***the Education Cabinet***[~~Arts, Education and Humanities~~];
(g) The secretary of the Tourism Cabinet;
(h)[~~The secretary of the Cabinet for Workforce Development;~~
~~(i)~~] The commissioner of education;
(i)[~~(j)~~] The commissioner of juvenile justice;
(j)[~~(k)~~] The director of the Administrative Office of the Courts;
(k)[~~(l)~~] Seven (7) gubernatorial appointees, representing business, community leaders, and consumers; and
(l)[~~(m)~~] The chair for the Council on State and Local Collaboratives.

(7) Members who hold state government positions shall serve by virtue of their offices. The remaining initial members of the commission shall be designated by the Governor to serve for a term ranging from one (1) to four (4) years. Subsequent appointments to the commission shall be for four (4) year terms and limited to two (2) consecutive four (4) year terms.

(8) The Governor shall designate a member of the public appointed to the commission to serve as chair of the commission for a term of two (2) years. Thereafter, a chair shall be selected by the members of the commission from the members of the public appointed by the commission. The chair shall serve for a period of two (2) years.

(9) The chair of the commission, following consultation with the cabinet secretaries and upon agreement of the commission, may designate work groups to make recommendations to the commission regarding parental and community involvement and its mission.

(10) Staff assistance shall be provided to the commission through the cooperative efforts of the members of the commission serving in the executive cabinet. Primary staff assistance shall be the responsibility of the Cabinet for Families and Children.

(11) Members of the commission shall be eligible to receive travel expenses while attending meetings of the commission in accordance with state travel regulations. Members of committees appointed by the commission shall be eligible for reimbursement of travel expenses incurred while attending committee or commission meetings in accordance with state travel regulations.

(12) The commission shall cease to exist two (2) years after July 15, 1998, unless otherwise reauthorized by the General Assembly.

Section 31. KRS 200.700 is amended to read as follows:

(1) The Early Childhood Development Authority is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including, but not limited to, employing other persons, consultants, attorneys, and agents. The authority shall be attached to the ***Department of Education***[~~Office of the Governor, Office of Early Childhood Development~~], for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.

(2) The authority shall consist of the following seventeen (17) members:

(a) The[~~ executive~~] director of the ***Division***[~~Governor's Office~~] of Early Childhood Development, who shall serve as chair;

(b) The secretary of the Education[~~, Arts, and Humanities~~] Cabinet;

(c) The secretary of the Cabinet for Health Services;

(d) The secretary of the Cabinet for Families and Children;

(e) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;

(f) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;

(g) Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor. At least one (1) private sector member shall be appointed from each congressional district;

(h) Three (3) citizens at large of the Commonwealth who shall be appointed by the Governor; and

(i) One (1) early childhood development advocate.

(3) No later than thirty (30) days after July 14, 2000, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:

(a) The Kentucky AFL-CIO;

(b) The Kentucky Chamber of Commerce;

(c) The Kentucky League of Cities;

(d) The Kentucky Medical Association;

(e) The Louisville Urban League and Lexington Urban League;

(f) The Kentucky County Judge/Executives Association; and

(g) The[~~ Kentucky~~] Council on Postsecondary Education.

(4) The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section. The Governor shall fill a vacancy occurring before the expiration of the appointed term from the appropriate list of nominees. If there are no nominees remaining on the appropriate list, the Governor shall request a list of additional nominees from the appropriate organization.

(5) (a) The initial terms of the private sector and citizen at-large members of the authority shall be for:

1. One (1) year for two (2) of the initial terms;

2. Two (2) years for three (3) of the initial terms;

3. Three (3) years for two (2) of the initial terms; and

4. Four (4) years for four (4) of the initial appointments.

(b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment.

(c) Members shall serve until a successor has been appointed.

(6) Private sector and citizen at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(7) In making appointments to the authority, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the authority of broad constituencies of Kentucky's early childhood development community.

(8) Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is

appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

(10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

Section 32. KRS 200.703 is amended to read as follows:

(1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:

(a) Implementation of public health initiatives identified by the General Assembly;

(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;

(c) Voluntary immunization for children not covered by public or private health insurance;

(d) Availability of high-quality, affordable early child-care and education options; and

(e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.

(2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

(3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health Services; the Cabinet for Families and Children; the Education[~~, Arts, and Humanities~~] Cabinet; the Finance and Administration Cabinet; or other appropriate administrative agency.

(4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.

(5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Coordinate and improve early childhood development services, outcomes, and policies;

(b) Establish procedures that relate to its governance;

(c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;

(d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;

(e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and

(f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:

1. The financial management of funds paid to grantees;

2. The maintenance of records; and

3. An independent audit of the use of grant funds.

(6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

(7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.

(8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:

(a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or

(b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority, or any programs that had been funded by the authority with expenditures from the early childhood development fund.

(9) (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Families and Children; the Cabinet for Health Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.

(b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.

(10) The authority shall work with local entities, including, but not limited to, health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination.

(11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

Section 33. KRS 200.705 is amended to read as follows:

The ***Department of Education***~~[Office of Early Childhood Development in the Office of the Governor]~~ shall provide staffing and administrative support to:

(1) The Early Childhood Development Authority;

(2) The Early Childhood Business Council; ***and***

(3)~~[The Early Childhood Professional Development Council; and~~

~~(4)]~~ The Kentucky Early Intervention System Interagency Coordinating Council.

Section 34. KRS 200.709 is amended to read as follows:

(1) The Early Childhood Business Council is created and attached to the ***Department of Education***~~[Office of Early Childhood Development, Office of the Governor,]~~ for administrative purposes. The function of the council shall be to:

(a) Involve the corporate community, county judges/executive, and mayors in supporting issues of importance to working families with young children in the Commonwealth; and

(b) Collect and disseminate information about the various ways business and local government can become involved in supporting early childhood.

(2) (a) The Early Childhood Business Council shall consist of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall serve for a term of two (2) years and until their successors are appointed and qualify, except that for those members initially appointed, the terms are as follows:

1. Five (5) members shall be appointed for three (3) years;
2. Five (5) members shall be appointed for two (2) years; and
3. Five (5) members shall be appointed for one (1) year.

(b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments. Members may not serve more than a total of three (3) terms.

(c) Members who are eligible to be appointed shall have demonstrated an investment or interest in early childhood development.

(3) Members of the Early Childhood Business Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

(4) The Early Childhood Business Council shall meet at least once every three (3) months and shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

Section 35. KRS 210.031 is amended to read as follows:

(1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.

(a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:

1. The Kentucky Association of the Deaf;

2. The A.G. Bell Association;

3. The Kentucky School for the Deaf Alumni Association; and

4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.

(b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.

(c) The head of each of the following entities shall appoint one (1) member to the advisory committee:

1. The Cabinet for Health Services, Department for Mental Health and Mental Retardation Services;

2. The ***Education*** Cabinet~~[for Workforce Development]~~, ***Office***~~[Department]~~ of Vocational Rehabilitation;

3. The Cabinet for Health Services, Office of Aging Services;

4. The Education~~[, Arts, and Humanities]~~ Cabinet, Commission on the Deaf and Hard of Hearing;

5. The Kentucky Registry of Interpreters for the Deaf; and

6. A Kentucky School for the Deaf staff person involved in education.

(d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.

(2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.

(3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) shall serve without compensation or reimbursement of any kind.

(4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.

(5) The advisory committee shall meet quarterly at a location determined by the committee chair.

(6) (a) The advisory committee shall prepare a biennial report which:

1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;

2. Reports the number of deaf or hard-of-hearing persons served;

3. Identifies additional service needs for the deaf and hard-of-hearing; and

4. Identifies a plan to address unmet service needs.

(b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 36. KRS 210.502 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The secretary of the Justice Cabinet;

(d) The commissioner of the Department for Mental Health and Mental Retardation Services;

(e) The commissioner of the Department for Medicaid Services;

(f) The commissioner of the Department of Corrections;

(g) The commissioner of the Department of Juvenile Justice;

(h) The commissioner of the Department of Education;

(i) The ***executive director***~~[commissioner]~~ of the ***Office***~~[Department]~~ of Vocational Rehabilitation;

(j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

(k) The director of the Office of Family Resource and Youth Services Centers;

(l) The executive director of the Office of Aging Services of the Cabinet for Health Services;

(m) The executive director of the Kentucky Agency for Substance Abuse Policy;

(n) The executive director of the Criminal Justice Council;

(o) The director of the Administrative Office of the Courts;

(p) The chief executive officer of the Kentucky Housing Corporation;

(q) The executive director of the Office of Transportation Delivery of the Transportation Cabinet;

(r) The commissioner of the Department of Public Health;

(s) Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;

(t) Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;

(u) A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(v) A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and

(w) An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.

(2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members designated in paragraphs (a) to (t) of subsection (1) of this section shall serve during their terms of office.

(4) Members and alternates designated in paragraphs (u) to (w) of subsection (1) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 37. KRS 210.575 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The commissioner of the Department for Mental Health and Mental Retardation Services;

(d) The commissioner of the Department for Medicaid Services;

(e) The ***executive director***~~[commissioner]~~ of the ***Office***~~[Department]~~ of Vocational Rehabilitation;

(f) The director of the University Affiliated Program at the Interdisciplinary Human Development Institute of the University of Kentucky;

(g) The director of the Kentucky Council on Developmental Disabilities;

(h) Two (2) members of the House of Representatives, appointed by the Speaker of the House;

(i) Two (2) members of the Senate, appointed by the Senate President; and

(j) Public members, appointed by the Governor as follows:

1. Five (5) family members, at least one (1) of whom shall be a member of a family with a child with mental retardation or other developmental disabilities, and one (1) of whom shall be a member of a family with an adult with mental retardation or other developmental disabilities. Of these five (5) family members, at least two (2) shall be members of a family with an individual with mental retardation or other developmental disabilities residing in the home of the family member or in a community-based setting, and at least two (2) shall be members of a family with an individual with mental retardation or other mental disabilities residing in an institutional residential facility that provides service to individuals with mental retardation or other developmental disabilities;
2. Three (3) persons with mental retardation or other developmental disabilities;
3. Two (2) business leaders;
4. Three (3) direct service providers representing the Kentucky Association of Regional Programs and the Kentucky Association of Residential Resources; and
5. One (1) representative of a statewide advocacy group.

The six (6) appointments made under subparagraphs 1. and 2. of this paragraph shall be chosen to reflect representation from each of Kentucky's six (6) congressional districts.

(2) The secretary of the Cabinet for Health Services shall serve as chair of the commission.

(3) Members defined in paragraphs (a) to (i) of subsection (1) of this section shall serve during their terms of office. All public members appointed by the Governor shall serve a four (4) year term and may be reappointed for one (1) additional four (4) year term.

(4) All public members of the commission shall receive twenty-five dollars ($25) per day for attending each meeting. All commission members shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of duties of the commission.

Section 38. KRS 247.804 is amended to read as follows:

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory Council shall be composed of:

(1) One (1) representative from each of the following entities:
  (a) Department of Agriculture, appointed by the Commissioner of Agriculture;
  (b) Tourism Development Cabinet, appointed by the secretary of the cabinet;
  (c) Education[~~, Arts, and Humanities~~] Cabinet, appointed by the secretary of the cabinet;
  (d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;
  (e) University of Kentucky Cooperative Extension Service;
  (f) West Kentucky Corporation;
  (g) Kentucky Tourism Council;
  (h) Kentucky Farm Bureau;
  (i) Kentucky Association of Fairs and Horse Shows;
  (j) East Kentucky Corporation;
  (k) Southern and Eastern Kentucky Tourism Development Association;
  (l) Licking River Valley Resource Conservation and Development Council;
  (m) Buffalo Trace Covered Bridge Authority;
  (n) Kentucky Chamber of Commerce; and
  (o) Kentucky Council of Area Development Districts;

(2) The Governor, or a designee;

(3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and

(4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

Section 39. KRS 347.040 is amended to read as follows:

(1) The secretaries of the Cabinet for Health Services and the Education[~~, Arts, and Humanities~~] Cabinet and the ***commissioner of education***[~~chief state school officer~~] shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:
  (a) Identification and prompt and adequate interdisciplinary assessment;
  (b) Case management services; and
  (c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the Legislative Research Commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:
  (a) The number of institution residents on waiting lists for placement in the community;
  (b) The number of persons outside institutions on waiting lists for placement in the institution;
  (c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;
  (d) The number, type, nature, and cost of services necessary for placement to occur;

(e) The status of compliance with the plan;

(f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and

(g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this chapter.

Section 40. KRS 347.050 is amended to read as follows:

The Cabinet for Health Services, the Education[~~, Arts, and Humanities~~] Cabinet, and the Department of Education shall promulgate and implement rules and regulations for the:

(1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this chapter, including, but not limited to, the right to:

(a) Provision of services in the least restrictive, individually appropriate environment;

(b) An individualized service plan;

(c) Privacy and humane service;

(d) Confidentiality, access, referral, and transfer of records;

(e) Monitored active treatment in the least restrictive, individually appropriate environment;

(f) Notice of rights under this chapter; and

(g) A fair, timely, and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, residential alternatives, and the protection of the rights of persons with developmental disabilities under this chapter.

(2) Implementation of this chapter providing for the orderly development of services and coordination among organizational units, administrative bodies, and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

Section 41. KRS 347.060 is amended to read as follows:

The Cabinet for Health Services, the Education[~~, Arts, and Humanities~~] Cabinet, and the Department of Education may assess reasonable charges for services rendered under this chapter, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this chapter may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of KRS 347.010.

Section 42. KRS 18A.450 is amended to read as follows:

Nothing in KRS 18A.400 to 18A.450 shall prohibit the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] or the commissioner of the Department of State Police from developing pilot programs consistent with the provisions of KRS 18A.400 to 18A.450. To the extent that pilot programs are approved by these agencies, in no event shall the total number employees participating in these programs statewide exceed twenty percent (20%) of the permanent, full-time state employees employed on July 15, 1994.

Section 43. KRS 42.4592 is amended to read as follows:

(1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585 and following the transfer of moneys to the secondary wood products development fund provided for in KRS 42.4586 shall be allocated as follows:

(a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years.

(b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:

1. Percentage of employment in mining in relation to total employment in the respective county;

2. Percentage of earnings from mining in relation to total earnings in the respective county; and

3. Surplus labor rate.

(c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two or more coal producing counties. For purposes of this paragraph, "coal producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.

(2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be

the rate published for the latest available five (5) year period by the ***Office of Employment and Training***[~~Department of Employment Services~~] in the ***Education*** Cabinet[~~ for Workforce Development~~], as provided in paragraph (b) of this subsection.

(b) 1. Each year the ***Office of Employment and Training***[~~Department for Employment Services~~] shall estimate surplus labor for each county and for the Commonwealth, and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.

2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the ***Office of Employment and Training***[~~Department of Employment Services~~] may consult with knowledgeable individuals including, but not limited to, the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.

3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.

(3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Department for Local Government.

Section 44. KRS 45.001 is amended to read as follows:

(1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.

(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following members or their designees:

(a) The mayor of the city of Frankfort;

(b) The county judge/executive of Franklin County;

(c) The secretary of the Finance and Administration Cabinet;

(d) The secretary of the Tourism Cabinet;

(e) The secretary of the Education[~~, Arts, and Humanities~~] Cabinet;

(f) The commissioner of the Department of Travel Development;

(g) The executive director of the Office of Capital Plaza Operations;

(h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;

(i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and

(j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

(4) The Governor shall appoint the chairperson of the committee.

(5) Members of the committee shall serve without compensation.

(6) The Office of Capital Plaza Operations in the Finance and Administration Cabinet shall provide administrative support to the committee.

Section 45. KRS 45A.470 is amended to read as follows:

(1) All governmental bodies and political subdivisions of this state shall, when purchasing commodities or services, give first preference to the products made by the Department of Corrections, Division of Prison Industries, as required by KRS 197.210. Second preference shall be given to the Kentucky industries for the blind as described in KRS 163.450 to 163.470 through June 30, 2000, and thereafter to any products produced by Kentucky Industries for the Blind, Incorporated or any other nonprofit corporation with which the ***Office***[~~Department~~] for the Blind contracts under KRS 163.480(2) to further the purposes of KRS Chapter 163 and agencies of individuals with severe disabilities as described in KRS 45A.465.

(2) The Finance and Administration Cabinet shall make a list of commodities and services provided by these agencies and organizations available to all governmental bodies and political subdivisions. The list shall identify in detail the commodity or service the agency or organization may supply and the price.

(3) The Finance and Administration Cabinet shall annually determine the current price range for the commodities and services offered from its experience in purchasing these commodities or services on the open market. The prices quoted by these agencies or organizations shall not exceed the current price range.

(4) The ***Office***~~[Department]~~ for the Blind within the ***Education*** Cabinet~~[for Workforce Development]~~ and qualified agencies for individuals with severe disabilities shall annually cause to be made available to the Finance and Administration Cabinet, lists of the products or services available.

(5) If two (2) or more of the agencies or qualified nonprofit organizations wish to supply identical commodities or services, the Finance and Administration Cabinet shall conduct negotiations with the parties to determine which shall be awarded the contract. The decision of the Finance and Administration Cabinet shall be based upon quality of the commodity or service and the ability of the respective agencies to supply the commodity or service within the requested delivery time.

Section 46. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) (a) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the ***former*** Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 47. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor ***and the***~~[,]~~ Lieutenant Governor,~~[and the Superintendent of Public Instruction,]~~ the heads of departments and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000

Secretary ***of***~~[for]~~ education~~[, arts, and humanities]~~	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Secretary of labor	5,000
Commissioner of surface mining reclamation and enforcement	50,000
State librarian	5,000
Commissioner of mines and minerals	5,000
Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for natural resources and environmental protection	10,000
Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health services	20,000
Secretary for families and children	20,000
Commissioner for environmental protection	10,000
Secretary for public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 48. KRS 96A.095 is amended to read as follows:

(1) The Transportation Cabinet may receive and accept from the Commonwealth or any of its agencies, including the Cabinet for Families and Children, the Cabinet for Health Services, and the ***Education*** Cabinet~~[for Workforce Development]~~, and from federal agencies appropriations or grants to promote, develop, and provide capital and operating subsidies for mass transit services and human service transportation delivery in Kentucky, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value to promote mass transit services. Subject to the provisions of Section 230 of the Constitution of the Commonwealth of Kentucky, any of these funds, property, or things of value received by the Transportation Cabinet may be given directly to any of the following entities in order to accomplish the purposes of this section:

(a) A local transit authority as created under this chapter;

(b) A city;

(c) A county;

(d) Other public mass transit providers;

(e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or

(f) An entity providing human service transportation delivery.

(2) The Transportation Cabinet is authorized and directed to apply for any available federal funds for operating subsidies, either on a matching basis or otherwise and to make any of these funds received available to any of the following entities in order to accomplish the purposes of this section:

(a) A local transit authority as created under this chapter;

(b) A city;

(c) A county;

(d) Other public mass transit providers;

(e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or

(f) An entity promoting or providing transit services such as safety, planning, research, coordination, or training activities.

In those cases where federal laws or regulations preclude the Transportation Cabinet from direct application for this type of federal funds, the cabinet is authorized and directed to provide assistance to any of the entities listed in this subsection as necessary to enable it to apply for and obtain this type of federal funds in order to accomplish the purposes of this section.

(3) The Transportation Cabinet is authorized to assist cities and counties in the formation of local transit authorities in conformance with this chapter, but nothing in this chapter shall be construed as preventing the Transportation Cabinet from providing assistance as authorized in this chapter to cities or counties where local transit authorities do not exist.

(4) The Transportation Cabinet is authorized to contract, in accordance with the provisions of KRS Chapters 45A and 281, with a broker to provide human service transportation delivery within a specific delivery area.

Section 49. KRS 151B.010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the commissioner ***for the Department for Workforce Investment***[~~for the Department for Technical Education~~] or any person authorized by the commissioner to act on behalf of the ***Office of Career and Technical Education***[~~department~~] with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. The designation shall be in writing and signed by both the commissioner and the designee.

(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035(3)***(h)***[~~(i)~~].

(3) "Board" means the Kentucky Technical Education Personnel Board established in KRS 151B.097.

(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the ***Office of Career and***[~~Department for~~] Technical Education are subject to personnel administration under this chapter.

(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.

(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.

(7) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.

(8) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.

(9) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the ***Office of Career and***[~~Department for~~] Technical Education requiring certification or its equivalent.

(10) "Employee" means a person regularly employed in a position in the ***Office of Career and***[~~Department for~~] Technical Education for which compensation is on a full-time or part-time basis.

(11) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the ***Office of Career and***[~~Department for~~] Technical Education shall be subject to personnel administration under this chapter.

(12) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant Attorney General.

(13) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.

(14) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.

(15) "Limited status" means employment that is renewable on an annual basis.

(16) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions.

(17) "Position" means employment involving duties requiring the services of one (1) person.

(18) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.

(19) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.

(20) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.

(21) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the ***Office of Career and***[~~Department for~~] Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.

(22) "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.

(23) "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.

(24) "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.

(25) "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.

(26) "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position who shall be exempt from the state service under KRS Chapter 18A and who is employed in the ***Office of Career and***[~~Department for~~] Technical Education under this chapter.

Section 50. KRS 132.193 is amended to read as follows:

(1) Leased personal property exempt from taxation, when such property is held by a natural person, association, or corporation in connection with a business conducted for profit, shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the property, except for personal property used in vending stands operated by blind persons under the auspices of the ***Office***[~~Department~~] for the Blind.

(2) Taxes shall be assessed to lessees of exempt personal property and collected in the same manner as taxes assessed to owners of other personal property, except that taxes due under this section shall not become a lien against the personal property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, city, or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS 134.500.

Section 51. KRS 132.195 is amended to read as follows:

(1) When any real or personal property which for any reason is exempt from taxation is leased or possession otherwise transferred to a natural person, association, partnership, or corporation in connection with a business conducted for profit, the leasehold or other interest in the property shall be subject to state and local taxation at the rate applicable to real or personal property levied by each taxing jurisdiction.

(2) Subsection (1) of this section shall not apply to interests in:

- (a) Industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit or tax-exempt statutory authority under the provisions of KRS Chapter 103, the taxation of which is provided for under the provisions of KRS 132.020 and 132.200;
- (b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;
- (c) Property of any state-supported educational institution;
- (d) Vending stand locations and facilities operated by blind persons under the auspices of the ***Office***[~~Department~~] for the Blind, regardless of whether the property is owned by the federal, state, or a local government; or
- (e) Property of any free public library.

(3) Taxes shall be assessed to lessees of exempt real or personal property and collected in the same manner as taxes assessed to owners of other real or personal property, except that taxes due under this section shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS 134.500.

Section 52. KRS 146.654 is amended to read as follows:

(1) The board of directors of the Kentucky Natural History Museum shall establish the Kentucky Natural History Museum. The board shall implement KRS 146.650 to 146.666 to the extent practical prior to operation of the museum. Working to achieve the public purposes that are the goals of implementation of KRS 146.650 to 146.666 shall not be dependent on the existence and operation of the museum in a physical place.

(2) The board shall be administratively linked to the Education[~~, Arts, and Humanities~~] Cabinet.

(3) To accomplish the purposes of KRS 146.650 to 146.666, the board is authorized to:

(a) Acquire and hold property by deed, gift, devise, bequest, lease, exchange, purchase, or transfer;

(b) Plan for, develop, construct, and maintain buildings;

(c) Enter into agreements with state, federal, or local agencies;

(d) Employ and contract with individuals, corporations, or other business entities to accomplish the purposes of KRS 146.650 to 146.666;

(e) Accept and administer appropriations, gifts, grants, devises, and bequests of money, securities, or other items of value; and

(f) Carry out any other functions necessary to accomplish the purposes of KRS 146.650 to 146.666.

(4) To accomplish the purposes of KRS 146.650 to 146.666, the board may provide and administer grants to public and private entities.

Section 53. KRS 148.562 is amended to read as follows:

(1) The authority shall be governed by a board of directors consisting of thirteen (13) members as follows:

(a) Secretary of the Tourism Development Cabinet, or his or her designee;

(b) Secretary of the Transportation Cabinet, or his or her designee;

(c) Secretary of the Education[~~, Arts, and Humanities~~] Cabinet, or his or her designee;

(d) Secretary of the Finance and Administration Cabinet, or his or her designee;

(e) Three (3) members appointed by the Governor, one (1) to be a representative of the Kentucky Arts Council, and two (2) to be at-large members; and

(f) Six (6) members appointed by the mayor of the city of Berea to include two (2) representatives of Berea city government, two (2) representatives of Berea College recommended by the president of Berea College, one (1) representative of Eastern Kentucky University recommended by the president of Eastern Kentucky University, and one (1) at-large member.

(2) Members shall serve for staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:

(a) One (1) appointment by the Governor and two (2) appointments by the mayor of the city of Berea shall each serve a term of four (4) years;

(b) Two (2) appointments by the mayor of the city of Berea and one (1) appointment by the Governor shall each serve a term of three (3) years;

(c) One (1) appointment by the Governor and one (1) appointment by the mayor of the city of Berea shall each serve a term of two (2) years; and

(d) One (1) appointment by the mayor of the city of Berea shall serve a term of one (1) year.

(3) The Governor shall appoint a chair from among the members of the board.

(4) A quorum of the board shall consist of seven (7) members, with a majority of members present authorized to act upon any matter legally before the authority.

(5) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance, and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B, relating to administrative hearings.

Section 54. KRS 151B.020 is amended to read as follows:

(1) The ***Education*** Cabinet[~~ for Workforce Development~~] is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, ***units listed in Section 3 of this Act,*** and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:

(a) The Department ***of Workforce Investment is hereby created and established within the Education Cabinet. The department shall be directed and managed by a commissioner appointed by the Governor under the provisions of KRS 12.040. The commissioner shall report to the secretary of the Education Cabinet. The department shall be composed of the following organizational entities set forth in this subsection***[~~for Adult Education and Literacy, which is created by KRS 151B.023~~];

1.[~~(b)~~] The ***Office of Career and***[~~Department for~~] Technical Education, which is created by KRS 151B.025;

2.[~~(c)~~] The ***Office***[~~Department~~] of Vocational Rehabilitation, which is created by KRS 151B.185;

3.[~~(d)~~] The ***Office***[~~Department~~] for the Blind established by KRS 163.470;

4.[~~(e)~~] The ***Office of Employment and Training***[~~Department for Employment Services~~], which is created by KRS

151B.280;

(b)[~~(f)~~] The Kentucky Technical Education Personnel Board established in KRS 151B.097;

(c)[~~(g)~~]The Foundation for Adult Education established by KRS 151B.130; ***and***

(d)[~~(h)~~] The Unemployment Insurance Commission established by KRS 341.110[~~; and~~

~~(i) The Department for Training and Reemployment created in KRS 151B.260~~].

(3) The executive officer of the cabinet shall be the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~]. The secretary shall be appointed by the Governor pursuant to ***KRS 12.255 and KRS 12.270***[~~KRS 12.040~~] and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq.[~~ The Office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Workforce Partnerships, Workforce Analysis and Research, Budget and Administrative Services, Quality and Human Resource Services, and Technology Services. The Office of Budget and Administrative Services shall contain the Division of Fiscal Services. The division shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050.~~]

(4) The secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(5) The secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] may delegate any duties of the secretary's office to employees of the cabinet as he or she deems necessary and appropriate, unless otherwise prohibited by statute.

(6) The secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

Section 55. KRS 151B.025 is amended to read as follows:

(1) The ***Office of Career and***[~~Department for~~] Technical Education is hereby created ***within***[~~and shall be attached to~~] the ***Education*** Cabinet[~~ for Workforce Development~~]. The ***office***[~~department~~] shall consist of ***an executive director***[~~a commissioner~~] and those administrative bodies and employees provided ***by*** or appointed pursuant to law.

(2) The chief executive officer of the ***office***[~~department~~] shall be the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education. The ***executive director***[~~commissioner~~] shall be appointed to the unclassified service by the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] with the approval of the Governor pursuant to KRS 12.050. The ***executive director***[~~commissioner~~] shall have general supervision and direction over all functions of the ***office***[~~department~~] and its employees, and shall be responsible for carrying out the programs and policies of the ***office***[~~department~~]. The ***executive director***[~~commissioner~~] may delegate authority to deputies who may then act on his or her behalf in performing the duties assigned in this subsection.

(3) The ***office***[~~department~~] shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area vocational education and technology centers. When appropriate, the ***office***[~~department~~] shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under the ***office's***[~~department's~~] jurisdiction.

(5) Secondary area vocational education and technology centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the Educational Professional Standards Board. In addition to direct appropriations, funds appropriated to support the cost of operating area vocational education and technology centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The ***Office of Career and***[~~Department for~~] Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the

Office of Career and[~~Department for~~] Technical Education.

(7) The *Office of Career and*[~~Department for~~] Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The *office*[~~department~~] shall involve representatives from all eligible recipient categories in the development of the required plans.

(8) The *office*[~~department~~] shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching specialties. The agreements and compensation for hard-to-find teaching specialties shall be approved by the *executive director*[~~commissioner~~] and shall not be subject to the provisions of KRS Chapter 45A. All agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The *executive director*[~~commissioner~~] of the *Office of Career and*[~~Department for~~] Technical Education shall, from time to time, prepare or cause to be prepared any bulletins, programs, outlines of courses, placards, and courses of study deemed useful in the promotion of the interests of technical and vocational education.

(10) The *executive director of the Office of Career and Technical Education*[~~commissioner of the department~~] shall be responsible for the preparation of a biennial budget request, which shall be forwarded to the *executive director of the Office of Budget and Administration for preliminary review and approval. Final approval shall be given by the secretary of the Education Cabinet or his or her designee*[~~secretary of the Cabinet for Workforce Development for review and modification~~].

Section 56. KRS 151B.030 is amended to read as follows:

The *Office of Career and*[~~Department for~~] Technical Education shall *have*[~~be divided according to~~] the following organizational structure:

(1) The *secretary*[~~commissioner~~] of the[~~ Department for Technical~~] Education *Cabinet* shall appoint a deputy *executive director*[~~commissioner~~] for technical education pursuant to KRS 12.050 and assign duties as appropriate.

(2)[~~There is hereby created a Division of Administrative Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.~~

~~(3)~~] There is hereby created a Division of *Secondary Education and Technical Training*[~~School Services~~] within the *Office of Career and*[~~Department for~~] Technical Education. The division[~~ of School Services~~] shall be headed by a director appointed by the *secretary of the Education Cabinet*[~~commissioner of the Department for Technical Education~~] under KRS 12.050. The division[~~ of School Services~~] shall be composed of organizational entities as deemed appropriate by the secretary of the *Education* Cabinet[~~ for Workforce Development as set forth by administrative order~~].

(3)[~~(4)~~] The *appointing authority*[~~commissioner~~] shall appoint an ombudsman *pursuant to KRS 12.050* and specify his *or her* functions and duties.

(4)[~~(5)~~] The Kentucky Technical Education Personnel Board, pursuant to KRS 151B.097, shall be attached to the department for administrative purposes.

Section 57. KRS 151B.035 is amended to read as follows:

(1) The *executive director*[~~commissioner~~] of the *Office of Career and*[~~Department for~~] Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the *Office of Career and*[~~Department for~~] Technical Education central office and state-operated vocational facilities. All other staff shall remain under the authority of the Kentucky Personnel Cabinet and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the *executive director*[~~commissioner~~] of the *Office of Career and*[~~Department for~~] Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the *Office of Career and*[~~Department for~~] Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The *executive director*[~~commissioner~~] of the *Office of Career and*[~~Department for~~] Technical Education shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c)[~~Certification;~~

~~(d)~~] Classification and compensation plans;

(d)[~~(e)~~] Incentive programs;

(e)[~~(f)~~] Selection of employees;

(f)[~~(g)~~] Types of appointments;

(g)[~~(h)~~] Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(h)[~~(i)~~] Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(i)[~~(j)~~] Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;

(j)[~~(k)~~] Employee evaluations;

(k)[~~(l)~~] Programs to improve the work effectiveness of employees including staff development;

(l)[~~(m)~~] Demotion;

(m)[~~(n)~~] Dismissal;

(n)[~~(o)~~] Layoffs;

(o)[~~(p)~~] Suspensions and other disciplinary measures;

(p)[~~(q)~~] Probationary periods, limited employment status, and continuing employment status;

(q)[~~(r)~~] Promotion;

(r)[~~(s)~~] Transfer;

(s)[~~(t)~~] Appeals; and

(t)[~~(u)~~] Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall comply with the provisions of this chapter and KRS Chapter 13A and shall have the force and effect of law, when approved by the commissioner and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the ***Office of Career and***[~~Department for~~] Technical Education.

(5) The commissioner for ***the Department of Workforce Investment***[~~Technical Education~~] shall be the appointing authority with respect to all personnel actions for the ***Office of Career and Technical Education***[~~department~~]. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Any personnel designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by the commissioner. Any recommendation for employment from the local level shall be based on guidelines promulgated by the ***executive director***[~~commissioner~~] and shall be contingent upon confirmation by the ***executive director***[~~commissioner and the board~~].

(6) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall promulgate other administrative regulations to govern proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the Kentucky Technical Education Personnel Board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the ***Office of Career and***[~~Department for~~] Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall make investigations, either on petition of a citizen, taxpayer, interested party, or as deemed necessary by the ***executive director***[~~commissioner~~], concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of the provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The Kentucky Technical Education Personnel Board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause. Effective August 15, 2000, appeals from assistants and secretaries in the ***Office of Career and***[~~Department for~~] Technical Education[~~ and the Department for Adult Education and Literacy~~] attached to policymaking positions shall be governed by KRS 18A.095. The State Personnel Board, established in KRS 18A.045, shall hear appeals that are pending as of August 15, 2000, from assistants and secretaries attached to policymaking positions in the ***Office of Career and***[~~Department for~~] Technical Education[~~ and personnel in the Department for Adult Education and Literacy~~].

(10) The Kentucky Technical Education Personnel Board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the ***former*** Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 58. KRS 151B.040 is amended to read as follows:

(1) All certified, equivalent, and unclassified employees in the ***Office of Career and***[~~Department for~~] Technical Education shall be:

(a) Provided the same health insurance coverage as all other state government employees provided in KRS 18A.225;

(b) Eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265;

(c) Provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 to 18A.215;

(d) Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 in the performance of their official duties; no part of the reimbursement shall be included in or accounted as a part of their salaries;

(e) Ensured equal employment opportunity regardless of race, color, religion, national origin, disability, sex, or age; and

(f) Given those holidays and rights granted state employees pursuant to KRS 18A.190.

(2) Employees under the jurisdiction of the ***former*** Department for Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent employees hired by the ***office***[~~departments~~] shall be placed in the Kentucky ***Teachers'***[~~Teacher's~~] Retirement System.

Section 59. KRS 151B.045 is amended to read as follows:

(1) The records of the ***Office of Career and***[~~Department for~~] Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.

(2) (a) A personnel file shall be maintained by the ***Education Cabinet***[~~departments~~] for each employee. The files maintained by the ***Education Cabinet***[~~departments~~] shall be the official personnel file for the employees.

(b) Each file shall include, but not be limited to, the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.

(c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his or her right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.

(3) Upon written request, an employee shall have the right to examine his or her personnel file. An employee may comment in writing on any item in the file. The comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.

(4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

Section 60. KRS 151B.050 is amended to read as follows:

Except as provided by the provisions of this chapter, the ***appointing authority or designee for the Office of Career and Technical Education***[~~commissioner for adult education and literacy, and the commissioner for technical education~~] may refuse to consider an applicant for a certified or equivalent position, or, after consideration, may disqualify the applicant or may remove an employee already appointed if:

(1) It is found that the person did not maintain certification or that certification has been revoked for the position;

(2) The person is unable to perform the duties of the position;

(3) The person made a false statement of material fact in the application;

(4) The application was not submitted correctly or within the prescribed time limits;

(5) The person has been convicted of a felony within the preceding five (5) years and has not had civil rights restored or has not been pardoned by the Governor;

(6) The person has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

(7) The person has previously been dismissed from a position in his department for cause or has resigned while charges for dismissal for cause of which the person had knowledge were pending; or

(8) The person has otherwise violated the provisions of this chapter.

Section 61. KRS 151B.055 is amended to read as follows:

(1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the ***Office of Career and***[~~Department for~~] Technical Education.

(2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the ***appointing authority***[~~commissioner~~] or a designee.

(3) The ***Office of Career and***[~~Department for~~] Technical Education shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the ***appointing authority***[~~commissioner~~] or a designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice,

the employee may request to appear, personally or with counsel if counsel is retained, to reply to the ***appointing authority***[~~commissioner of the Department for Technical Education~~] or a designee.

(5) The appearance shall be held six (6) working days after receipt of an employee's request to appear before the ***appointing authority***[~~commissioner~~] or a designee, excluding the day the employee's request is received, unless the employee and the ***appointing authority***[~~commissioner~~] or a designee agree to a later date.

(6) No later than five (5) working days after the employee appears before the ***appointing authority***[~~commissioner~~] or a designee, excluding the day of the appearance, the ***appointing authority***[~~commissioner~~] or a designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(7) If the ***appointing authority***[~~commissioner~~] or a designee determines that the employee shall be dismissed, the employee shall be notified in writing of:

(a) The effective date of dismissal or other penalization;

(b) The specific reason for the action, including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the dismissal is based;
3. The date, time, and place of the action or activities; and
4. The names of the parties involved; and

(c) That the employee may appeal the dismissal to the Kentucky Technical Education Personnel Board within thirty (30) days after receipt of this notification, excluding the day the notice is received.

(8) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:

(a) The demotion or suspension;

(b) The effective date of the demotion or suspension;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the demotion or suspension is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved; and

(d) That the employee has the right to appeal to the Kentucky Technical Education Personnel Board within thirty (30) days, excluding the day of receipt of notification.

(9) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy the records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.

(10) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(11) (a) Appeals to the Kentucky Technical Education Personnel Board shall be in writing on an appeal form prescribed by the ***Office of Career and***[~~Department for~~] Technical Education. Appeal forms shall be available at the employee's place of work. The ***Office of Career and***[~~Department for~~] Technical Education shall be responsible for the distribution of the forms.

(b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer, or other penalization, or notice of any other action an employee may appeal under the provisions of this section.

(c) Upon receipt of the appeal by the board, the ***appointing authority or a designee***[~~commissioner~~] shall be notified, and the board shall schedule a hearing that shall be conducted in accordance with KRS Chapter 13B.

(12) (a) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section and KRS Chapter 13B.

(b) The board may deny a hearing to an employee who has failed to file an appeal over which the board has jurisdiction or within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his or her right to appeal the denial under the provisions of KRS 151B.060.

(c) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon the information.

(13) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(14) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(15) (a) If the board finds that the action complained of was taken by the appointing authority ***or designee*** in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of the individual's sex, age, or disability, the ***appointing authority or designee***[~~commissioner~~] shall immediately reinstate the employee to his or her former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his or her former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and

(d) In all other cases, the board shall rescind the action taken or grant other relief to which the employee is entitled.

(16) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.

Section 62. KRS 151B.065 is amended to read as follows:

(1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of KRS 151B.060, the board shall forward a certified copy of the order to the ***Office of Career and***[~~Department for~~] Technical Education. The ***office***[~~department~~] shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.

(b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.

(c) All other deductions shall be deducted as required by law or by other state regulation.

(2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set-off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.

(b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.

Section 63. KRS 151B.075 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from a committee composed of equal numbers of teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated secondary area vocational education and technology centers shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;

(b) Job knowledge and skills;

(c) Instructional management;

(d) Employee conduct; and

(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Employee conduct; and

(d) Professional responsibility.

(7) There shall be established by the ***executive director***~~[commissioner]~~ an evaluation appeals procedure for certified or equivalent personnel in the ***Office of Career and***~~[Department for]~~ Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator; and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the state-operated secondary area vocational education and technology centers, this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the ***appointing authority or designee***~~[commissioner of the Department for Technical Education]~~ who shall make a final ruling. For other employees in the ***Office of Career and***~~[Department for]~~ Technical Education, this appeal shall go to the appropriate office head and then to the ***appointing authority or designee***~~[commissioner]~~.

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 64. KRS 151B.080 is amended to read as follows:

(1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.

(2) In the same ***office***~~[department]~~, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with continuing status. The

Office of Career and[~~Department for~~] Technical Education shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a layoff plan submitted to the ***executive director***[~~commissioner~~] have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.

(5) For a period of three (3) years, laid-off employees shall be considered before any applicant from outside the ***Office of Career and***[~~Department for~~] Technical Education, except another laid-off employee with more seniority who is already on the list.

(6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:

(a) The laid-off employee notifies the ***office***[~~department~~] in writing that he or she no longer wishes to be considered for a position on the list;

(b) Two (2) written offers of appointment are declined, the offers to be for a position of the same classification and salary, and located in the same county or contiguous counties, as the position from which laid off;

(c) Two (2) written offers to schedule an interview are made and the laid-off employee fails to respond to a certified letter requesting the laid-off employee to schedule an interview within ten (10) working days;

(d) The laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;

(e) The laid-off employee cannot be located by postal authorities at the last address provided; or

(f) The laid-off employee has willfully violated the provisions of this chapter.

(7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.

(8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of KRS 151B.055.

Section 65. KRS 151B.085 is amended to read as follows:

(1) A layoff of an employee with continuing status in the ***Office of Career and***[~~Department for~~] Technical Education due to the abolition of a position, lack of funds, or economic or employment trends resulting in a lack of work or a material change in duties or organization shall comply with the provisions of this section.

(2) Prior to the notification of layoff and prior to the layoff of an employee, the ***office***[~~department~~] shall prepare a layoff plan. The plan shall contain the name of the employee and the reasons, in detail, for the layoff. Upon approval of the plan by the ***appointing authority or designee***[~~commissioner~~], the employee shall be notified of the pending layoff, and of:

(a) The reason for the layoff;

(b) The procedures established by the provisions of KRS 151B.080, and this section for the layoff of employees; and

(c) The rights granted employees subject to layoff and to laid-off employees.

(3) (a) An employee subject to layoff shall be considered for a vacant position within the ***office***[~~department~~] of the same pay grade, level of duties, and responsibilities for which the employee is qualified.

(b) If a vacancy does not exist, the employee shall be considered for any vacant position within his ***office***[~~department~~] for which qualifications are held.

(4) If no position is available to an employee subject to layoff under the procedure established by subsection (3) of this section, the employee shall be notified of the layoff in writing at least thirty (30) days prior to implementation of the layoff.

Section 66. KRS 151B.097 is amended to read as follows:

(1) The Kentucky Technical Education Personnel Board is hereby established to conduct personnel appeals from certified and equivalent employees in the ***Office of Career and***[~~Department for~~] Technical Education under KRS Chapter 151B. Appeals shall be conducted in accordance with the provisions established in KRS Chapter 13B. The board shall be attached to the ***Office of Career and***[~~Department for~~] Technical Education for administrative purposes.

(2) The Kentucky Technical Education Personnel Board shall be composed of five (5) voting members, three (3) of whom shall be selected from employees of agencies within the ***Education*** Cabinet[~~ for Workforce Development~~], except no member shall be an employee within the Office of the Secretary or the ***Office of Career and***[~~Department for~~] Technical Education. The remaining two (2) members shall be teachers employed by the ***Office of Career and***[~~Department for~~] Technical Education's Area Technology Centers. The election of the teacher representatives may be conducted by written ballot, Internet balloting, intranet balloting, or electronic mail. The teacher candidates may be present when the balloting is tallied. All votes cast shall be tallied by an independent entity.

(a) The Governor shall appoint the two (2) members elected by the teachers employed by the ***Office of Career and***[~~Department for~~] Technical Education's Area Technology Centers and the three (3) members selected from employees of agencies within the ***Education*** Cabinet[~~ for Workforce Development~~]. All members shall be appointed by the Governor to four (4) year terms, and each term shall end on June 30 of the fourth year. Terms of new members or reappointed members shall begin on July 1 of the year beginning their term. If a vacancy occurs during a term, the Governor shall appoint a replacement to serve the remainder of the unexpired term within thirty (30) days of the vacancy. The Governor shall select a replacement from the group where the vacancy occurred. The manner of selection for the replacement shall be the same as the manner of the original selection.

(b) The members shall possess an understanding of the personnel system established in KRS Chapter 151B.

(c) A chair shall be elected annually by members of the board.

(3) The board shall meet as necessary to comply with time frames for conducting personnel appeals under KRS Chapter 13B and KRS Chapter 151B, and at other times as deemed necessary by the chair of the board. For meetings of the board, a majority of the voting members shall be present to constitute a quorum for the transaction of business.

(4) The ***Office of Career and***[~~Department for~~] Technical Education shall provide administrative, budgetary and support staff services for the board.

(5) Employees of the ***Education*** Cabinet[~~ for Workforce Development~~] who serve as members of the board shall not receive additional salary for serving as members on the board. However, upon approval of the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education, board members shall be entitled to reimbursement of actual and necessary expenses incurred while performing their duties as an active member of the board.

(6) During personnel appeals conducted by the board, both parties shall be given the opportunity to have a representative present at each step of the process.

Section 67. KRS 151B.112 is amended to read as follows:

The ***Office of Career and***[~~Department for~~] Technical Education shall have the management and control of state-operated secondary area vocational education and technology centers, and all programs and services operated in these centers.

Section 68. KRS 151B.120 is amended to read as follows:

(1) The ***vice president for the Kentucky Adult Education Program, Council on Postsecondary Education,***[~~commissioner of the Department for Adult Education and Literacy~~] and the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the secretary of the ***Education***[~~Workforce Development~~] Cabinet and shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the appropriate ***agency head***[~~commissioner~~]. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) ***The vice president and the executive director***[~~Each commissioner~~] may approve authorization for his ***or her agency***[~~department~~] to enter into ***agreements***[~~agreement~~] with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 69. KRS 151B.125 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

(1) For purposes of any public employment, a high school equivalency diploma or a regular high school diploma obtained through participation in the external diploma program shall be considered equal to a high school diploma issued under the provisions of KRS 158.140.

(a) A high school equivalency diploma shall be issued without charge upon successfully passing the test given by the ***Kentucky Adult Education Program's***[~~Department for Adult Education and Literacy~~] approved testing centers in conformance with requirements of the General Educational Development Testing Service of the American Council on Education. A fee may be assessed by the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] for the issuance of a duplicate high school equivalency diploma and for issuance of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.

(b) As an alternative to receiving a high school equivalency diploma, persons who are twenty-five (25) years or older may obtain a high school diploma through participation in the external diploma program. The diploma shall be issued upon achieving one hundred percent (100%) mastery on the competencies established by the American Council on Education. The ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] may enter into agreements with local school districts to confer the high school diploma on successful participants in the external diploma program.

(2) The ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring the GED examination essay.

Section 70. KRS 151B.127 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

The General Assembly recognizes the critical condition of the educational level of Kentucky's adult population and seeks to stimulate the attendance at, and successful completion of, programs that provide a high school equivalency diploma. Incentives shall be provided to full-time employees who complete a high school equivalency diploma program within one (1) year and their employers. For purposes of this section "equivalent diploma" means a high school equivalency diploma issued after successful completion of the General Educational Development tests.

(1) The ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy in conjunction with the Council on Postsecondary Education~~] shall promulgate administrative regulations to establish the operational procedures for this section. The administrative regulations shall include, but not be limited to, the criteria for:

(a) A learning contract that includes the process to develop a learning contract between the student and the adult education instructor with the employer's agreement to participate and support the student;

(b) Attendance reports that validate that the student is studying for the high school equivalency diploma during the release time from work;

(c) Final reports that qualify the student for the tuition discounts under subsection (2)(a) of this section and that qualify the employer for tax credits under subsection (3) of the section.

(2) (a) An individual who has been out of secondary school for at least three (3) years, develops and successfully completes a learning contract that requires a minimum of five (5) hours per week to study for the high school equivalency diploma tests, and passes the tests shall earn a tuition discount of two hundred fifty dollars ($250) per semester for a maximum of four (4) semesters at one (1) of Kentucky's public postsecondary institutions.

(b) The ***program***[~~department, with the cooperation of the Council on Postsecondary Education,~~] shall work with the postsecondary institutions to establish notification procedures for students who qualify for the tuition discount.

(3) An employer who assists an individual to complete his or her learning contract under the provisions of this section shall receive a state income tax credit for a portion of the released time given to the employee to study for the tests. The application for the tax credit shall be supported with attendance documentation provided by the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] and calculated by multiplying fifty percent (50%) of the hours released for study by the student's hourly salary, and not to exceed a credit of one thousand two hundred fifty dollars ($1250).

Section 71. KRS 151B.130 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.

(3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the cabinet.

(4) The foundation shall be attached to the office of the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] for administrative purposes.

Section 72. KRS 151B.150 is amended to read as follows:

The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education is vested with the authority to carry out the purposes of the program of vocational education and the provisions of the Acts of Congress accepted by KRS 151B.145, and is given all the necessary power and authority in promulgating administrative regulations and administering vocational education and carrying out the provisions of the acts relating thereto.

Section 73. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state secondary area vocational education and technology centers operated by the ***Office of Career and***[~~Department for~~] Technical Education shall be free to all residents of Kentucky. The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall fix the rate of tuition and fees for adults who are enrolled in secondary programs in the state-operated area vocational education and technology centers under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Community and Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Community and Technical College System.

Section 74. KRS 151B.170 is amended to read as follows:

The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education may provide liability insurance for licensed and nonlicensed motor vehicles owned or operated by the ***Office of Career and***[~~Department for~~] Technical

Education in vocational schools and centers. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence in such amounts as the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education designates. In either case the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 75. KRS 151B.155 is amended to read as follows:

The State Treasurer is custodian of all money received by the state from the federal government under the federal acts accepted by KRS 151B.145, and the State Treasurer shall collect the money and pay it out upon the order of the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~].

Section 76. KRS 151B.175 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education is authorized to provide medical and accident insurance for students enrolled in the state secondary area technology centers and area vocational education centers. The ***Office of Career and***[~~Department for~~] Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in state-operated schools under its jurisdiction. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education shall promulgate administrative regulations to implement the medical and accident insurance program. The ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education may fix the rate of fees for all secondary students, the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as he or she deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the ***executive director***[~~commissioner~~] of the ***Office of Career and***[~~Department for~~] Technical Education.

Section 77. KRS 151B.185 is amended to read as follows:

(1) The ***Office***[~~Department~~] of Vocational Rehabilitation is hereby created and shall be attached to the ***Education*** Cabinet[~~ for Workforce Development~~]. The ***office***[~~department~~] shall consist of ***an executive director***[~~a commissioner~~] and those administrative bodies and employees provided or appointed pursuant to law. The ***office***[~~department~~] shall be composed of ***the Division of***[~~Divisions of Administrative Management, Program Planning and Development,~~] Program Services[~~,~~] and the ***Division of the*** Carl D. Perkins Comprehensive Rehabilitation Center. Each division shall be headed by a ***division*** director appointed by the ***secretary of the Education Cabinet under the provisions of KRS 12.050***[~~commissioner of the Department of Vocational Rehabilitation~~], and shall be composed of organizational entities as deemed appropriate by the ***secretary of the Education Cabinet***[~~commissioner of the Department of Vocational Rehabilitation, as set forth by administrative order~~].

(2) The ***Office***[~~Department~~] of Vocational Rehabilitation shall have such powers and duties as contained in KRS 151B.180 to 151B.210 and such other functions as may be established by administrative regulation.

(3) The ***office***[~~department~~] shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational rehabilitation.

(4) The chief executive officer of the ***office***[~~department~~] shall be the ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Vocational Rehabilitation. The ***executive director***[~~commissioner~~] shall be appointed by the ***secretary of the Education Cabinet under the provisions of KRS 12.050***[~~secretary of the Cabinet for Workforce Development~~]. The ***executive director***[~~commissioner~~] shall have experience in vocational rehabilitation and supervision and shall have general supervision and direction over all functions of the ***office***[~~department~~] and its employees, and shall be responsible for carrying out the programs and policies of the ***office***[~~department~~].

(5) Except as otherwise provided, the ***office***[~~department~~] shall be the state agency responsible for all rehabilitation services and for other services as deemed necessary. The ***office***[~~department~~] shall be the agency authorized to expend all state and federal funds designated for rehabilitation services. The office of the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services.

(6) Employees under the jurisdiction of the ***Office***[~~Department~~] of Vocational Rehabilitation who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems.

Section 78. KRS 151B.195 is amended to read as follows:

(1) The ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Vocational Rehabilitation shall prescribe administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency; may enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned; may establish and supervise the operation of small businesses established pursuant to KRS 151B.180

to 151B.210 to be conducted by eligible individuals with severe disabilities; and may establish state funded special programs for vocational rehabilitation in the state vocational rehabilitation agency.

(2) Except as provided in KRS 151B.190, the ***executive director***[~~commissioner~~] may prescribe administrative regulations to establish fees for services provided to individuals or entities, public or private.

(3) The ***executive director***[~~commissioner~~] is authorized to provide liability insurance or an indemnity bond against the negligence of drivers of motor vehicles owned or operated by the ***office***[~~department~~] for the transportation of applicants or clients of the ***office***[~~department~~]. If the transportation is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence to such amounts as the ***executive director***[~~commissioner~~] designates. In either case, the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any applicant or client or other person, or death or injury of any applicant or client or other person.

(4) The provisions of any other statute notwithstanding, the ***executive director***[~~commissioner~~] is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

Section 79. KRS 151B.205 is amended to read as follows:

The State Treasurer is hereby designated as the custodian of all funds. The State Treasurer shall make disbursements for vocational rehabilitation purposes upon certification by the ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Vocational Rehabilitation.

Section 80. KRS 151B.210 is amended to read as follows:

The ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Vocational Rehabilitation may[~~,~~] accept and use gifts made by will or otherwise for carrying out the purposes of KRS 151B.180 to 151B.210. Gifts made under such conditions as in the judgment of the ***executive director***[~~commissioner~~] of the ***Office***[~~Department~~] of Vocational Rehabilitation are proper and consistent with the provisions of KRS 151B.180 to 151B.210 may be so accepted and shall be held, invested, reinvested, and used in accordance with the provisions of KRS 151B.180 to 151B.210.

Section 81. KRS 151B.225 is amended to read as follows:

(1) There is hereby created a Client Assistance Program which is assigned for administrative purposes to the Office of ***Legal***[~~Budget and Administrative~~] Services within[~~ the office of the secretary of~~] the ***Education*** Cabinet[~~ for Workforce Development~~].

(2) The Client Assistance Program shall pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatment, services, or rehabilitation under the Rehabilitation Act of 1973, as amended. If additional resources are required to perform the duties and responsibilities of the Client Assistance Program, the cabinet, on behalf of the Client Assistance Program, may contract with other state agencies to obtain necessary legal or other professional services.

(3) The Office of ***Legal***[~~Budget and Administrative~~] Services shall serve as the agency in charge of all personnel, equipment, records, files, and funds pertaining to the Client Assistance Program as provided for in the Rehabilitation Act of 1973, as amended.

Section 82. KRS 151B.230 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Workforce Development." The purpose of the foundation shall be to supplement public funding for technical education programs in order to expand existing skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used to fund technical education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the technical skill level of their employees.

(3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] based on recommendations from business, industry, labor, education, and interested citizens. Staff assistance for the board of trustees shall be provided by the ***Office of Career and***[~~Department for~~] Technical Education.

(4) The foundation shall be attached to[~~ the office of the secretary of~~] the ***Education*** Cabinet[~~ for Workforce Development~~] for administrative purposes.

(5) The foundation shall report its finances consistent with statutes and regulations promulgated by the Finance and Administration Cabinet. An annual report shall be made to the Interim Joint Committee on Appropriations and Revenue. This report shall follow generally accepted accounting procedures and shall include a detail reporting on all moneys acquired and expended.

Section 83. KRS 151B.240 is amended to read as follows:

(1) The Statewide Independent Living Council is hereby created and attached to the ***Office***[~~Department~~] of Vocational Rehabilitation for administrative purposes to accomplish the purposes enumerated in 29 U.S.C. sec. 796d (Title VII, Part A, Section 705 of the Rehabilitation Act Amendments of 1998). Members of the council shall be appointed by the Governor from recommendations submitted by the ***Office***[~~Department~~] of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities representing geographical and disability diversity as well as representatives from identified service providers and other entities. The composition, qualifications, and terms of service of the council shall conform to the federal law.

(2) (a) Except as provided in paragraph (b) of this subsection, any vacancy occurring in the membership of the Statewide Independent Living Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.

(b) The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(3) Each member of the Statewide Independent Living Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide Independent Living Council. The per diem and expenses shall be paid out of the federal funds appropriated under Title VII, Chapter 1, Part A, and Title VII, Chapter 1, Part C of the Rehabilitation Act Amendments of 1998, Pub. L. 105-220.

Section 84. KRS 151B.245 is amended to read as follows:

(1) The Statewide Council for Vocational Rehabilitation is hereby created within the ***Office***[~~Department~~] of Vocational Rehabilitation to accomplish the purposes and functions enumerated in 29 U.S.C. sec. 725 (Title I, Part A, Section 105 of the Rehabilitation Act Amendments of 1998). Members of the council shall be appointed by the Governor from recommendations submitted by the ***Office***[~~Department~~] of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities not employed by the ***office***[~~department~~] as well as representatives of specified organizations, service providers, and advocacy groups. The compensation, qualifications, and terms of service of the council shall conform to the federal law.

(2) (a) Except as provided in paragraph (b) of this subsection, any vacancy occurring in the membership of the Statewide Council for Vocational Rehabilitation shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.

(b) The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(3) Each member of the Statewide Council for Vocational Rehabilitation may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide Council for Vocational Rehabilitation. The per diem and expenses shall be paid out of the federal funds appropriated under Title I, Part A, of the Rehabilitation Act Amendments of 1998, Pub. L. 105-220.

Section 85. KRS 151B.250 is amended to read as follows:

(1) It is the intent of the General Assembly to create and support a School-to-Careers System that involves business, labor, education, and government to prepare students for careers in an ever-changing economy.

(2) The ***Office of Career and***[~~Department for~~] Technical Education within the ***Education*** Cabinet[~~ for Workforce Development~~] shall coordinate the School-to-Work effort with the Kentucky Department of Education. As the School-to-Work effort is a federally supported program that fits within the overall mission of the School-to-Careers System, it is critical that collaboration and coordination occur. The following elements shall be coordinated when possible:

(a) Planning and partner involvement of business, labor, education, government, community-based organizations, employers, parents, and students;

(b) Career awareness, exploration, preparation, and guidance incorporated in the school curriculum;

(c) A comprehensive system approach from the primary through postsecondary levels with all students having the opportunity to participate;

(d) Applied learning experiences;

(e) Integration of academic and occupational education;

(f) Performance assessment;

(g) Actual or simulated learning at the school or the worksite;

(h) Curriculum based on skill standards representing all aspects of an industry;

(i) Secondary to postsecondary articulation;

(j) Postsecondary articulation; and

(k) Professional development opportunities for all partners.

(3) The ***Office of Career and***[~~Department for~~] Technical Education may promulgate administrative regulations establishing policy for the development and implementation of a school-to-work transition system.

(4) The ***Office of Career and***[~~Department for~~] Technical Education shall comply with the provisions of the federal School-to-Work Opportunities Act, Pub.L. 103-239 as it is amended from time to time.

Section 86. KRS 151B.280 is amended to read as follows:

(1) The ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] is created and ***established within the Department of Workforce Investment within***[~~shall be attached to~~] the ***Education*** Cabinet[~~ for Workforce Development~~]. The ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] shall develop and operate employment development and placement programs, including job recruitment and business liaison functions, employability development and training programs, and job counseling and placement programs of the cabinet. In addition, the ***office***[~~department~~] shall develop and operate all programs relating to the unemployment insurance laws of the Commonwealth, including responsibilities relating to hearing and judging unemployment insurance benefit appeals.

(2) The ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] shall be headed by ***an executive director***[~~a commissioner~~] appointed by the secretary with the approval of the Governor, in accordance with KRS 12.050. The ***executive director***[~~commissioner~~] for employment ***and training***[~~services~~] shall be a person who, by experience and training in administration and management, is qualified to perform the duties of the office. The ***executive director***[~~commissioner~~] of employment services shall exercise authority over the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] under the direction of the ***commissioner of Workforce Investment***[~~secretary~~], and shall fulfill only the responsibilities delegated by the ***commissioner***[~~secretary~~].

(3) (a) The secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] shall develop and promulgate administrative regulations which protect the confidential nature of all records and reports of the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] which directly or indirectly identify a client or former client and which insure that these records are not disclosed to or by any person except and insofar as:

1. The person identified shall give his consent; or

2. Disclosure may be permitted under state or federal law.

(b) Notwithstanding any other state statute or administrative regulation to the contrary, any information concerning individual clients or applicants in the possession of the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] may be shared with any authorized representative of any other state or local governmental agency, if the agency has a direct, tangible, and legitimate interest in the individual. The agency receiving the information shall assure the confidentiality of all information received. The ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] may share information concerning a client or applicant with any private or quasi-private agency if:

1. The agency has an agreement with the cabinet assuring the confidentiality of the information; and

2. The agency has a direct, tangible, and legitimate interest in the individual.

Section 87. KRS 151B.285 is amended to read as follows:

The ***Education*** Cabinet[~~ for Workforce Development~~] shall administer and supervise state employment offices and perform any other duties within the Act of Congress entitled "An Act to provide for the establishment of a National Employment Service and for Cooperation with the State in the Promotion of Such System and for Other Purposes," approved June 6, 1933 (48 Stat. 113, U.S.C., Title 29, sec. 49(c)), as amended, and known as the Wagner-Peyser Act. All duties and powers relating to the establishment, maintenance, and operation of free public employment offices are vested in the ***Education*** Cabinet[~~ for Workforce Development~~]. The provisions of the Wagner-Peyser Act, as amended, are accepted by this state. in conformity with Section 4 of that Act, and this state will observe and comply with the requirements of that Act. The ***Education*** Cabinet[~~ for Workforce Development~~] is designated and constituted the agency of this state for the purposes of the Wagner-Peyser Act.

Section 88. KRS 151B.410 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

(1) The ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] shall promulgate necessary administrative regulations and administer a statewide adult education and literacy system throughout the state. The adult education and literacy system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.

(a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical colleges, community colleges, regional universities, adult education centers, public schools, libraries, family resource centers, adult correctional facilities, other institutions, and through the Kentucky Commonwealth Virtual University. Services shall be targeted to communities with the greatest need based on the number of adults at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy Survey and other indicators of need.

(b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.

(c) Multiple funding sources, program support, and partnerships to administer the adult education and literacy system may include student scholarship and grants; fees for services rendered; and other general, agency, local, state, federal, and private funds.

(2) Services included as part of the adult education and literacy system shall include, but not be limited to functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computating, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills.

(3) In administering an adult education and literacy system, the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] shall:

(a) Assist providers with the development of quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including high school equivalency diploma preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

(b) Provide assessments of each student's skill and competency level allowing assessments to be shared with other educational and employment entities when necessary for providing additional educational programs, taking into consideration student confidentiality;

(c) Assist adult educators to meet professional standards;

(d) Create an awareness program in cooperation with the Administrative Office of the Courts to ensure that District and Circuit Court Judges are aware of the provisions of KRS 533.200 and the methods to access adult education and literacy programs for persons sentenced under the statute;

(e) Develop administrative regulations including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;

(f) Require and monitor compliance with the department's administrative regulations and policies; and

(g) Develop and implement performance measures and benchmarks.

Section 89. KRS 151B.450 is amended to read as follows:

As used in KRS 151B.450 to 151B.475, unless the context requires otherwise:

(1) "Assistive technology" means any item, piece of equipment, or device that enables an individual with a disability to improve his or her independence and quality of life.

(2) "Board" means the board of directors of the Kentucky Assistive Technology Loan Corporation.

(3) "Cabinet" means the ***Education*** Cabinet[~~ for Workforce Development~~].

(4) "Corporation" means the Kentucky Assistive Technology Loan Corporation created under KRS 151B.455.

(5) "Fund" means the Kentucky assistive technology loan fund created under KRS 151B.470.

(6) "Qualified borrower" means an individual with a disability that affects a major life activity such as mobility, sensory and cognitive communications, or self-care, a parent or legal guardian of an individual with a disability, or a nonprofit organization that provides assistive technology to individuals with disabilities who meet the criteria for participating in the Kentucky assistive technology loan fund.

(7) "Qualified lender" means a financial lending institution or other qualified organization contracted with by the corporation to provide loans for the purchase of assistive technology.

Section 90. KRS 151B.455 is amended to read as follows:

(1) The Kentucky Assistive Technology Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions for the purpose of improving the quality of life for disabled persons who are residents of the Commonwealth of Kentucky by providing the ability to obtain low-interest loans to qualified borrowers for the acquisition of assistive technology.

(2) The corporation shall be governed by a board of directors consisting of seven (7) members as follows:

(a) The secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] or the secretary's designated representative;

(b) One (1) attorney with lending expertise;

(c) One (1) representative of a financial lending institution; and

(d) Four (4) public members with a knowledge of assistive technology representing a range of disabilities.

(3) All board members shall be residents of the Commonwealth of Kentucky and all, with the exception of the secretary or the secretary's designee, shall be appointed by the Governor. Each public member shall be an individual with a disability, a parent of an individual with a disability, or a legal representative of an individual with a disability. In making appointments the Governor shall seek recommendations from disability-related associations and organizations representing the categories of disabilities for which appointments are being made.

(4) For initial appointments to the board, two (2) public members shall be appointed for terms of four (4) years each, two (2) public members for terms of three (3) years each, the attorney member for a term of two (2) years, and the member representing a financial lending institution for a term of one (1) year. All succeeding terms shall be for a period of four (4) years each, and each appointee shall serve for the appointed term and until a successor has been appointed and has duly qualified. No person shall serve more than two (2) successive full terms.

(5) If a vacancy on the board occurs, the Governor shall appoint a replacement who shall hold office during the remainder of the term vacated.

(6) The Governor may remove any board member in case of incompetency, neglect of duties, gross immorality, or malfeasance in office, and may upon removal declare the position vacant and appoint a person to fill the vacancy as provided in other cases of vacancy. If a board member is so removed, he or she may appeal. Upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 91. KRS 151B.460 is amended to read as follows:

(1) At the first board meeting following initial appointment of all board members, the board shall elect a chair from its membership, and a chair shall be elected annually thereafter.

(2) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies on the board of directors.

(3) The board of directors shall meet at least once a quarter, and may meet at other times upon call of the chair or at the request of a majority of board members, and with a minimum of seven (7) days' notice.

(4) Board members shall receive no compensation for their services but may be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under KRS 151B.450 to 151B.475, subject to the availability of funding.

(5) If any board member has a direct or indirect interest in any qualified lender or any organization serving as a qualified borrower, the interest shall be disclosed and set forth in the minutes of the board, and the board member having the interest shall not participate in any action involving the organization in which he or she has the interest.

(6) The ***Education*** Cabinet~~[for Workforce Development]~~ shall provide technical, clerical, and administrative assistance to the board, together with necessary office space and personnel, and shall provide any other services and support necessary for the board to perform its functions. The cabinet shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers which constitute the official records of the corporation. The board may enter into a contract with the cabinet as may be proper and appropriate for the provision of these services.

Section 92. KRS 151B.470 is amended to read as follows:

(1) There is established in the State Treasury a permanent and perpetual fund to be known as the assistive technology loan fund, consisting of moneys that may be appropriated by the General Assembly, gifts, bequests, endowments, or grants from the United States government, its agencies and instrumentalities, and any other available sources of funds, public and private. Any fund balance at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in the fund shall be continuously appropriated only for the purposes specified in this section. Interest and income earned from the investment of funds shall remain in the fund and be credited to it.

(2) The fund shall be used to provide loans to qualified borrowers within the Commonwealth for the purpose of acquiring assistive technology designed to help individuals with disabilities become more independent. Loans shall be made to qualified borrowers through qualified lenders with the fund being used as appropriate to negotiate reduced interest rates, to buy down interest rates, and to provide loan guarantees.

(3) The fund shall be under the administrative control of the board.

(4) If the corporation is dissolved, any unencumbered moneys appropriated by the General Assembly remaining in the fund shall revert to the general fund, and any other unencumbered moneys shall be transferred to the ***Education*** Cabinet~~[for Workforce Development]~~ to be expended for programs and services for Kentuckians with disabilities.

Section 93. KRS 153.180 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.

(2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:

(a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.

(b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.

(3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.

(4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.

(5) The foundation shall be attached to the office of the secretary for the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.

(6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

Section 94. KRS 153.215 is amended to read as follows:

(1) There is established the Kentucky Arts Council (hereinafter referred to as "the council") which shall perform functions pursuant to KRS 153.210 to 153.235.

(2) The purpose of the council shall be to develop and promote a broadly conceived state policy of support for the arts in Kentucky pursuant to KRS 153.210 to 153.235.

(3) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the arts. On July 1, 1972, the Governor shall appoint not more than four (4) members for a term of one (1) year; not more than four (4) members for a term of two (2) years; not more than four (4) members for a term of three (3) years; and not more than four (4) members for a term of four (4) years. Thereafter the Governor shall make all appointments for a term of four (4) years, except that of the members appointed after July 15, 1998, four (4) members appointed to fill the terms expiring July 1, 1999, shall serve until February 1, 2000; four (4) members appointed to fill the terms expiring July 1, 2000, shall serve until February 1, 2001; four (4) members appointed to fill the terms expiring July 1, 2001, shall serve until February 1, 2002; and members appointed to fill the terms expiring July 1, 2002, shall serve until February 1, 2003; and subsequent appointments shall be for four (4) year terms ending on February 1.

(4) Council members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties under KRS 153.210 to 153.235.

(5) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(6) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(7) The council shall be attached to the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet as an independent administrative body.

(8) The council shall be headed by an executive director appointed by the secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet upon recommendation of the council.

Section 95. KRS 153.220 is amended to read as follows:

The duties and functions of the arts council shall be to:

(1) Stimulate and encourage throughout the state the study and presentation of the arts, and foster public interest and participation therein;

(2) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;

(3) Encourage and assist freedom of artistic expression essential for the well-being of the arts;

(4) Serve as the sole agency in the Commonwealth for administration of a state arts plan developed in coordination with the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet;

(5) Establish standards and procedures and advisory committees as necessary to advise the Governor on the selection of the Kentucky poet laureate or writer laureate;

(6) Advise the Governor on matters pertaining to the arts;

(7) Adopt and promulgate regulations for the performance of its duties and functions provided in KRS 153.210 to 153.235;

(8) Receive federal grants, and other money and property of any nature whatsoever which may be given, donated, conveyed, bequeathed, devised, or otherwise transferred, without condition or restriction, except that provided by law, other than that it be used for some purpose of the council as permitted by KRS 153.210 to 153.235;

(9) Contract from time to time, as appropriate, with experts and consultants who may be utilized as deemed necessary, and make other necessary purchases and expenditures, all in accordance with the state plan approved by the secretary of the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet and with the state purchasing provisions of KRS Chapters 45 and 45A;

(10) Hold public and private hearings for the purpose of furthering the objectives of the council's programs; and

(11) Make and sign any agreements, subject to the provisions of KRS Chapters 45 and 45A, and do and perform any acts that may be necessary to carry out the purposes of KRS 153.210 to 153.235.

Section 96. KRS 153.410 is amended to read as follows:

(1) The Kentucky Center for the Arts Corporation is hereby established, and shall consist of fifteen (15) members representing metropolitan Louisville and Kentucky to be appointed by the Governor, who shall also designate a chairman. Initial terms shall be staggered; thereafter, members shall be appointed to four (4) year terms.

(2) Members may be removed by the Governor only for cause after being afforded notice, a hearing with counsel before the Governor or his designee, and a finding of fact by the Governor. A copy of charges, transcript of the record of the hearings, and findings of fact shall be filed with the Secretary of State.

(3) The Kentucky Center for the Arts Corporation shall be a body corporate with full corporate powers. A quorum of the corporation shall consist of eight (8) members, with a majority of members present authorized to act upon any matter legally before the corporation. Full minutes and records shall be kept of all meetings of the corporation and all official actions shall be recorded.

(4) The corporation may enact bylaws concerning the election of other officers, the creation of an executive committee with full authority to act between regular meetings, and the designation of alternates for members with full voting authority.

(5) The corporation shall be attached to the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet for administrative purposes.

Section 97. KRS 153.620 is amended to read as follows:

(1) April 24 of each year is declared to be "Kentucky Writers' Day."

(2) The ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet may plan and direct a yearly event on April 24 honoring Kentucky writers. These plans may include designing programs for schools and civic or business organizations.

Section 98. KRS 154.10-050 is amended to read as follows:

(1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.

(2) The board shall set the salary of the secretary, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; submit the strategic plan for economic development to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the board in accordance with the provisions of KRS 154.10-140; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.

(4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.

(5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(6) The secretary shall, in carrying out the duties and responsibilities of the office and in administering the programs in KRS 154.12-216 to 154.12-278, give highest priority consideration in marketing, targeting, and recruiting new businesses, in expanding existing businesses, and in recommending state economic development loans, grants, and incentive programs administered by the authority, to Kentucky counties which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] within the ***Department of Workforce Investment in the Education*** Cabinet[~~ for Workforce Development~~].

Section 99. KRS 154.12-203 is amended to read as follows:

(1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.

(2) It shall be the purpose of the Kentucky Commission on Military Affairs to:

(a) Address matters of military significance to Kentucky;

(b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;

(c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;

(d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;

(e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;

(f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;

(g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;

(h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky;

(i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and

(j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.

(3) The Kentucky Commission on Military Affairs shall consist of:

(a) The Governor, or his designated representative;

(b) The secretary of the Cabinet for Economic Development, or his designated representative;

(c) The adjutant general of the Commonwealth, or his designated representative;

(d) The executive director of the Kentucky Long-Term Policy Research Center, or his designated representative;

(e) The secretaries of the following cabinets, or their designees:

1. Finance and Administration;
2. Families and Children;
3. Justice;
4. Natural Resources and Environmental Protection;
5. Transportation;
6.[~~Workforce Development;~~
~~7.~~] Education[~~, Arts, and Humanities~~];
7.[~~8.~~] Health Services;
8.[~~9.~~] Revenue; and
9.[~~10.~~] Labor;

(f) The Attorney General, or his designee;

(g) The commissioner of the Department of Veterans' Affairs or a designee;

(h) The executive director of the Kentucky Commission on Military Affairs or a designee;

(i) Kentucky's Civilian Aide to the Secretary of the United States Army;

(j) Two (2) members of the Kentucky General Assembly, with experience in or an interest in military and defense-related issues, one (1) member to be appointed by the President of the Senate, and one (1) member to be appointed by the Speaker of the House;

(k) The commander or the designee of the commander of each of the following as nonvoting, ex officio members:

1. Fort Campbell;
2. Fort Knox;
3. United States Army Recruiting Command;
4. Bluegrass Army Depot;
5. Louisville District of the United States Army Corps of Engineers;

6. The One Hundredth Training Division;

7. Technology Park of Greater Louisville; and

8. Any other installation or organization, including but not limited to the United States Coast Guard, Air Force, Navy, and Marine Corps, with a military mission in the Commonwealth; and

(l) Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.

(4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.

(5) (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee.

(b) The chair and vice chair of the commission shall also serve as chair and vice chair of the executive committee.

(c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.

(6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.

(9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.

(10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.

(11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 100. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of ***Workforce Investment or his or her designee***[~~Employment Services~~], the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the president of the Council on Postsecondary Education, the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] and the president of the Kentucky Community and Technical College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 101. KRS 154.12-207 is amended to read as follows:

(1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions, and business and industry, not in excess of two hundred thousand dollars ($200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.

(2) To qualify for a grant-in-aid in which an educational institution will provide training, an educational institution and a business or industry shall submit a joint application to the corporation that contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities, and materials; and with respect to educational institutions only, a statement of the technical assistance and financial support for the program received or pledged from business and industry. To qualify for a grant-in-aid in which a provider other than an educational institution will provide training, the business or industry may independently submit a proposal to the corporation containing the same information as set forth in this subsection.

(3) Approval of the grant-in-aid application by the board shall be based upon the following criteria:

(a) The program must be within the scope of KRS 154.12-204 to 154.12-208;

(b) Participants in the program must be limited to a Kentucky resident, as the term is defined in KRS 141.010;

(c) The program must involve an area of skills training and education which is needed by business and industry and for which a shortage of qualified individuals exists within the Commonwealth;

(d) The grant-in-aid must be essential to the success of the program as the resources of the educational institution are inadequate to attract the technical assistance and financial support necessary from business and industry;

(e) The educational institution must have obtained a firm commitment from business and industry for the information, technical assistance, and financial support which, together with the grant-in-aid, the resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid;

(f) The educational institution must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation; and

(g) Ninety percent (90%) of the participants receive a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the business and industry is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] within the ***Department of Workforce Investment in the Education*** Cabinet[~~ for Workforce Development~~].

Section 102. KRS 154.12-2084 is amended to read as follows:

As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

(1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;

(2) "Approved costs" means:

(a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;

(c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and

(f) All other costs of a nature comparable to those described in this subsection;

(3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level or to adult persons without a high school diploma or its equivalent;

(6) "Employee" means any person:

(a) Who is currently a permanent full-time employee of the qualified company;

(b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;

(c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and

(d) Who receives a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the qualified company is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] within the ***Department of Workforce Investment in the Education*** Cabinet[~~ for Workforce Development~~].

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;

(7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;

(8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;

(9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, registered limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;

(10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment, including but not limited to technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, are unable to advance on the job, or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and

(11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, as provided in KRS 154.12-2086(1).

Section 103. KRS 154.20-150 is amended to read as follows:

(1) On or before October 1, 1992, and on or before the first day of every third month thereafter, the authority shall provide a

written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include, but is not limited to:

(a) The current status of each project under consideration by the authority, the proposed cost of a project, for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and

(b) The current status of each project, along with an updated cost for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.

(2) On or before the first day of each fiscal year, the authority shall submit an overview report to the Legislative Research Commission, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky Economic Development Finance Authority.

(3) In addition to the project status report, all construction, reconstruction, or alteration, financed or facilitated in whole or in part by the authority shall be reported to the ***Office of***[~~Kentucky Department for~~] Employment ***and Training***[~~Services~~], ***within the Department of Workforce Investment in the Education*** Cabinet[~~ for Workforce Development~~], and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This construction activity report shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

Section 104. KRS 154.20-170 is amended to read as follows:

(1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120, and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(10), shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.

(2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] within the ***Department of Workforce Investment in the Education*** Cabinet[~~ for Workforce Development~~].

Section 105. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the wage and employment data published by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***[~~Department for Employment Services in the~~

~~Kentucky Cabinet for Workforce Development]~~ collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility;

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060;

(17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8); and

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project.

Section 106. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***[~~Department for Employment Services within the Cabinet for Workforce Development~~], determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent calendar year, and shall certify those counties as qualified counties. A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:

(a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***[~~Department for Employment Services in the Cabinet for Workforce Development~~];

(b) In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and

(c) Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.

If the authority determines that a county which has previously been certified as a qualified county no longer meets the criteria of this subsection, the authority shall decertify that county. The authority shall not provide inducements for any facilities in that county and an approved company shall not be eligible for the inducements offered by KRS 154.22-010 to 154.22-070 unless the tax incentive agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. In addition, the authority shall certify coal-producing counties, not otherwise certified as qualified counties in this subsection, for economic development projects involving the new construction of electric generation facilities. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time. For economic development projects undertaken in a regional industrial park, as defined in KRS 42.4588, or in an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.245, where the physical boundaries of the industrial park lie within two (2) or more counties of which at least one (1) of the counties is a qualified county under this section, an eligible company undertaking an economic development project within the physical boundaries of the industrial park may be approved for the inducements under KRS 154.22-010 to 154.22-080.

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

(c) The requirements of this subsection shall not apply to eligible companies which are nonprofit corporations established under KRS 273.163 to 273.387 and whose employees are handicapped and sheltered workshop workers employed at less than the established minimum wage as authorized by KRS 337.295.

For an eligible company, within a regional industrial park which lies within two (2) or more counties, the calculation of the wage and benefit requirement shall be determined by averaging the average county hourly wage for all counties within the regional industrial park.

(5) No economic development project which will result in the replacement of agribusiness, manufacturing, or electric generation facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates an agribusiness, manufacturing, or electric generation facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or

3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces an agribusiness, manufacturing, or electric generation facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing agribusiness, manufacturing, or electric generation facility located in the same qualified county, and the existing agribusiness, manufacturing, or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the agribusiness, manufacturing, or electric generation facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the agribusiness, manufacturing, or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(6) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval, the authority may by final approval designate an eligible company to be an approved company.

Section 107. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(2) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(3) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(5) "Average hourly wage" means the wage and employment data published by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***[~~Department for Employment Services in the Kentucky Cabinet for Workforce Development~~] collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Economic development project" or "project" means:

(a) A new or expanded service or technology activity conducted at a new or expanded site by:

1. An approved company; or

2. An approved company and its affiliate or affiliates; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(8) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(9) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(10) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(11) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(12) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(13) "Local government" means a city, county, or urban-county government;

(14) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(15) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(16) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(17) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(18) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(19) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(20) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;

(21) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(22) (a) “Service or technology” means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;

(23) “Start-up costs” means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040;

(24) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project; and

(25) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

Section 108. KRS 154.23-015 is amended to read as follows:

(1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***~~[Department for Employment Services within the Cabinet for Workforce Development]~~:

(a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;

(b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and

(c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.

(2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

(3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.

(4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the tax incentive agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

(5) If decertification causes a formerly certified contiguous census tract to become noncontiguous, the applicant shall have the discretion to eliminate or maintain the noncontiguous tract. If the applicant eliminates the noncontiguous tract, it may replace the noncontiguous tract with another qualifying census tract, subject to approval of the authority.

(6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.

(7) The authority shall pay its costs of counsel relating to zone certification.

Section 109. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(2) "Agreement" means the service and technology agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(3) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(7) "Average hourly wage" means the wage and employment data published by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***~~[Department for Employment Services in the Kentucky Cabinet for Workforce Development]~~ collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic development project" or "project" means a new or expanded service or technology activity conducted at a new or expanded site by:

(a) An approved company; or

(b) An approved company and its affiliate or affiliates;

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(12) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

(14) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local

government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(15) "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(16) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(18) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(19) (a) "Service or technology" means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state; and

(20) "Start-up costs" means the acquisition cost associated with the project related to the furnishing and equipping the building for ordinary business functions, including computers, furnishings, office equipment, the relocation of out-of-state equipment, and nonrecurring costs of fixed telecommunication equipment as verified and approved by the authority in accordance with KRS 154.24-130.

Section 110. KRS 154.26-080 is amended to read as follows:

(1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for approval of eligible companies and economic revitalization projects shall include but not be limited to the need for the project; the new capital investment in the project that will result in financial stability for the manufacturing or coal mining and processing facility; and the retention or expansion of the greatest number of employees at the manufacturing or coal mining and processing facility.

(3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100, the eligible company will close its manufacturing or coal mining and processing facility, permanently lay off its employees, and cease operations.

(4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including, but not limited to, financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility; and set out alternatives that are available to the company.

(5) As a part of its application, an eligible company as described in KRS 154.26-010(10)(b) may request an emergency declaration based upon the urgency of the request and its impact on the local or regional economy.

(6) A request for an emergency declaration shall be reviewed by the secretary of the Cabinet for Economic Development, the

secretary of the ***Education*** Cabinet~~[for Workforce Development]~~, and the secretary of the Finance and Administration Cabinet and their findings in connection with the emergency declaration shall be delivered to the authority.

(7) If the emergency declaration is granted in accordance with subsection (6) of this section, the eligible company shall not be subject to the requirements contained in subsection (8), subsection (9), or subsection (11) of this section.

(8) In accordance with, and after the adoption of a resolution under subsection (10) of this section, the authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the company will close the facility absent a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.

(9) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility.

(10) After a review of relevant materials and completion of inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily-approved company and authorizing the undertaking of the economic revitalization project.

(11) The authority shall review the report of the consultant and other information which has been made available to it in order to assist the authority in determining whether the company intends to close the facility for valid reasons. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.

(12) After the review of the consultant's report or if an emergency declaration has been issued in accordance with subsection (6) of this section, the authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.

(13) After the public hearing, the authority, by resolution, may declare the jobs then existing at the facility to be lost; may give its final approval to the eligible company's application for a project; and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(14) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 111. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the wage and employment data published by the ***Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet***[~~Department for Employment Services in the Kentucky Cabinet for Workforce Development~~] collectively translated into wages per hour based on a two thousand eighty

(2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 112. KRS 154.45-120 is amended to read as follows:

The ***Education*** Cabinet~~[for Workforce Development]~~ shall verify employment information relating to the hiring requirements of qualified businesses to select and maintain employees from the targeted workforce. The ***Education*** Cabinet~~[for Workforce Development]~~ shall fully cooperate with the authority in the development of a system to monitor employment information supplied by qualified businesses.

Section 113. KRS 154.47-015 is amended to read as follows:

(1) The Kentucky Wood Products Competitiveness Corporation is created and established, as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic, performing functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through promoting, enhancing, and developing the Commonwealth's secondary wood products industries by:

(a) Disseminating information;

(b) Providing services;

(c) Developing workforce training measures and standards to support value-added functions with regard to design, processing and manufacture, and marketing of wood products; and

(d) Providing financial support for the deployment of new or improved technology and world-class manufacturing systems to businesses engaged in the production and manufacture of value-added wood products.

(2) The corporation shall be governed by a board of thirteen (13) members, consisting of seven (7) members representing the private sector including four (4) representatives of Kentucky's secondary wood products industry; one (1) member representing the Kentucky Forest Products Council as created and established by KRS 154.47-110; one (1) member representing the ***Education*** Cabinet[~~ for Workforce Development~~]; and four (4) members representing the following universities with one (1) member each representing the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University.

(3) The initial appointments to the board shall be made on or before October 1, 1994, in the following manner:

(a) Seven (7) private sector members shall be made by the Governor from names of persons submitted on or before August 30, 1994, in the following manner:

1. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Wood Manufacturers Network;
2. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Forest Industries Association;
3. One (1) from a list of three (3) nominees submitted in writing by the Mountain Association for Community Economic Development;
4. One (1) from a list of three (3) nominees submitted in writing from grass roots community economic development organizations that have a demonstrated interest in the development of secondary wood products industries; and
5. One (1) from a list of three (3) nominees from private business submitted in writing by the Kentucky Economic Development Partnership.

(b) The Kentucky Forest Products Council, the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~], and the presidents of the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University shall each designate a representative of their respective organizations to be appointed by the Governor to the board.

(c) If any organization or institution as specified in paragraph (a) of this subsection does not nominate persons for appointment as prescribed therein, the Governor may solicit names from any other source, or he may appoint from the list of names submitted by the remaining organizations.

(d) The initial term of office for the seven (7) private sector members shall be staggered so that four (4) members shall serve for a term of three (3) years and three (3) members shall serve for a term of four (4) years. Subsequent appointments shall be made in the same manner as prescribed for original appointments, and shall be for four (4) year terms each.

(4) Except as prescribed in subsection (3)(d) of this section and for the appointee representing the ***Education*** Cabinet[~~ for Workforce Development~~], all appointments shall have a term of four (4) years. The term for the person appointed from the ***Education*** Cabinet[~~ for Workforce Development~~] shall be the same as that of the Governor. Any appointment made by the Governor to fill an unexpired term shall be only for the remaining time of the vacated appointment. Nothing contained in this section shall be construed as prohibiting the reappointment of a member of the board to succeeding terms if, the person to be reappointed has been nominated or designated in the manner as prescribed for original appointments set forth in this section.

Section 114. KRS 156.497 is amended to read as follows:

(1) There is created an Interagency Task Force on Family Resource Centers and Youth Services Centers which shall consist of twenty-one (21) members appointed by the Governor. The twenty-one (21) members appointed shall include one (1) representative from each of the following agencies or groups, except the Department of Education which shall include three (3) representatives and parents which shall have three (3) representatives:

(a) Department of Education;

(b) ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] of the ***Education*** Cabinet[~~ for Workforce Development~~];

(c) Department for Health Services of the Cabinet for Human Resources;

(d) Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources;

(e) Department for Social Services of the Cabinet for Human Resources;

(f) Department for Social Insurance of the Cabinet for Human Resources;

(g) Justice Cabinet;

(h) Governor's Office;

(i) Office of the Secretary, ***Education*** Cabinet[~~for Workforce Development~~];

(j) Parents;

(k) Teachers;

(l) Local school administrators;

(m) Local school boards;

(n) Local community mental health-mental retardation programs;

(o) Local health departments;

(p) Local community action agencies; and

(q) A family resource and youth services coordinator.

(2) The task force shall be appointed and begin to meet immediately upon July 13, 1990, to formulate a five (5) year implementation plan establishing family resource and youth services centers designed to meet the needs of children and their families. By July 1, 1995, the implementation plan shall be revised to include two (2) additional years, 1996 and 1997. The centers shall provide services which will enhance students' abilities to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services. The secretary of the Cabinet for Human Resources shall call the first meeting, at which time the task force by majority vote shall elect a task force chair to serve a one (1) year term. A new chair shall be elected annually thereafter, and the chair may succeed himself. The Cabinet for Human Resources shall provide adequate staff to assist in the development and implementation of the task force's plan.

(3) The plan developed by the task force shall include an effort to implement a network of family resource centers across the Commonwealth. The centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and shall include, but not be limited to, the following components for each site:

(a) Full-time preschool child care for children two (2) and three (3) years of age;

(b) After school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;

(c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;

(d) Parent and child education (PACE) as described in KRS 158.360 or similar program;

(e) Support and training for child day care providers; and

(f) Health services or referral to health services, or both.

(4) The plan developed by the task force shall include a schedule to implement a network of youth services centers across the Commonwealth. The centers shall be located in or near each school, except elementary schools, serving youth over twelve (12) years of age and in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and include, but not be limited to, the following components for each site:

(a) Referrals to health and social services;

(b) Employment counseling, training, and placement;

(c) Summer and part-time job development;

(d) Drug and alcohol abuse counseling; and

(e) Family crisis and mental health counseling.

(5) The task force shall complete its implementation plan for the program prior to January 1, 1991, and local school districts shall develop initial plans for their family resource centers and youth services centers by June 30, 1991. By June 30, 1992, family resource centers and youth services centers shall be established in or adjacent to at least one-fourth (1/4) of the eligible schools, with expansion by one-fourth (1/4) by June 30 of each year thereafter or until the centers have been established in or adjacent to all eligible schools.

(6) A grant program is established to provide financial assistance to eligible school districts establishing family resource centers and youth services centers. The Cabinet for Human Resources shall award the grants pursuant to KRS 156.4977. A school district shall not operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for purposes of seeking an abortion.

(7) Funding provided to the Cabinet for Families and Children for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.

(8) The task force shall continue to monitor the family resource centers and the youth services centers, review grant applications, and otherwise monitor the implementation of the plan until December 31, 1997, at which time the task force shall cease to exist. During its existence, the task force shall report at least annually to the secretary of the Cabinet for Human Resources, the ***Kentucky Board of***~~[State Board for Elementary and Secondary]~~ Education, the Governor, and the Legislative Research Commission.

(9) Members of the task force may be reimbursed for actual expenses for attending meetings and for other actual and necessary expenses incurred in the performance of their duties authorized by the task force. The expenses shall be paid out of the appropriation for the task force.

Section 115. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex officio capacity:

 (a) The chairman of the Council on Postsecondary Education;

 (b) The president of the Council on Postsecondary Education;

 (c) The chairman of the Kentucky Board of Education;

 (d) The commissioner of the Department of Education;

 (e) The ***commissioner of the Department of Workforce Investment***~~[secretary of the Cabinet for Workforce Development]~~;

 (f) The chairman of the Board for the Kentucky Higher Education Assistance Authority; and

 (g) The president of the Kentucky Community and Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 116. KRS 156.749 is amended to read as follows:

(1) Administrative expenses of the commission will be borne by the respective participating agencies, as a part of each agency's normal budget for basic operations. In each year, the agency represented by the chairman shall provide any necessary staff support required, including provision of a secretary, whose duties shall include the taking of minutes and distribution thereof. The agency represented by the chairman shall make arrangements for meeting facilities.

(2) All meetings will be held in Frankfort, Kentucky, upon the call of the chairman or a majority vote of the membership. In the initial year, the ***commissioner for the Department of Workforce Investment***~~[secretary of the Cabinet for Workforce Development]~~ shall serve as chairperson.

Section 117. KRS 157.069 is amended to read as follows:

(1) As used in this section:

 (a) "Secondary area technology center" or "secondary area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency. An area center may be either state or locally operated; and

 (b) "Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.

(2) The Kentucky Department of Education shall distribute all general funds designated for locally operated secondary area centers and vocational departments, which have been receiving state supplemental funds prior to June 21, 2001, by a weighted formula, specified in an administrative regulation promulgated by the Kentucky Board of Education. The formula shall take into account the differences in cost of operating specific programs. The commissioners of the Kentucky Department of Education and the Department ***of Workforce Investment***~~[for Technical Education]~~ shall formally agree upon programs to be assigned to categories based on the descriptions found in paragraphs (a) to (c) of this subsection. Programs in Categories III and II shall be eligible for funding.

 (a) Category III--High-cost technical programs: Programs in which students develop highly technical skills in specific occupational areas and that require high-cost equipment, materials, and facilities. This category may include selected industrial technology Level III programs as defined by the ***Office of Career and***~~[Department for]~~ Technical Education and programs in other occupational areas as deemed appropriate by both ***agencies***~~[departments]~~;

 (b) Category II--Technical skill programs: Programs in which students develop technical skills focused in occupational areas and that require technical equipment but high-cost equipment, facilities, or materials are not necessary to operate the programs. This category may include selected industrial technology Level III programs as defined by the ***Office of Career and***~~[Department for]~~ Technical Education and programs in other occupational areas as deemed appropriate by both ***agencies***~~[departments]~~; and

 (c) Category I--Orientation and career exploration programs: Programs that provide orientation and exploration of broad-based industries by giving students knowledge and experience regarding careers within these industries and develop some exploratory or hands-on skills used in the industry.

Notwithstanding paragraphs (a) and (b) of subsection (1) of this section, the Department of Education shall approve the combining of eligible secondary vocational programs into a single vocational department for purposes of funding for a school district that has been receiving state supplemental funds and has distributed its vocational programs, previously located in area centers, among magnet career academies.

(3) For calculation purposes and after categorizing the programs as described in subsection (2) of this section, a weight shall be applied as a percentage of the base guarantee per pupil in average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky Program, which shall be applied to full-time equivalent students in Categories II and III. Category I programs shall receive no weight. The full-time equivalent students shall be calculated on the basis of the total program enrollment divided by the length of the class period divided by six (6).

Section 118. KRS 157.910 is amended to read as follows:

(1) There is hereby established the Kentucky Environmental Education Council, referred to hereafter as the council, to provide leadership and planning for environmental education for the population of Kentucky through the cooperative efforts of educators, government agencies, businesses, and public interests. The council shall be an independent agency and be attached to the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(2) The nine (9) member council shall be appointed to four (4) year terms by the Governor and be composed of a balance of education, government, industry, and environmental interests. Members appointed by the Governor shall have the authority to carry out the provisions of KRS 157.900 to 157.915.

(3) The council shall hire an executive director, environmental education specialists, and clerical staff to carry out the functions and duties of the council.

(4) The council members shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

(5) The council membership shall elect a chairperson to serve a one (1) year term.

Section 119. KRS 157.921 is amended to read as follows:

(1) The Kentucky Geographic Education Board is established to provide leadership and planning for geography education for the population of Kentucky through the efforts of elementary, secondary, and postsecondary educators, government agencies, and public interests. The board shall be an independent agency and be attached to the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(2) The twelve (12) member board shall be appointed to two (2) year terms, initially appointed by the Governor, and composed of the following members:

(a) Three (3) representatives from postsecondary institutions;

(b) One (1) representative from the Council for Social Sciences;

(c) Six (6) representatives from elementary and secondary schools;

(d) One (1) representative of the Department of Education; and

(e) One (1) representative of the Council on Postsecondary Education.

(3) The board shall select from its membership a chair and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies that occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

(4) The board members shall receive no compensation but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

Section 120. KRS 158.360 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

(1) The ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~ shall provide technical assistance to providers to develop family literacy services. The technical assistance shall be evaluated on a regular basis by contracted evaluators outside the department.

(2) The programs shall:

(a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;

(b) Provide the children with developmentally appropriate educational activities;

(c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

(d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of under education and poverty; and

(e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services.

Section 121. KRS 158.442 is amended to read as follows:

(1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety programs, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention;

(b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;

(c) Analyze the data collected in compliance with KRS 158.444;

(d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;

(e) Administer a school safety grant program for local districts as directed by the General Assembly;

(f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;

(g) Prepare and disseminate information regarding best practices in creating safe and effective schools;

(h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and

(i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.

(3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:

(a) The commissioner or a designee of the Department of Education;

(b) The commissioner or a designee of the Department of Juvenile Justice;

(c) The commissioner or a designee of the Department for Mental Health and Mental Retardation Services;

(d) The commissioner or a designee of the Department for Community Based Services;

(e) The secretary or a designee of the Education~~[, Arts, and Humanities]~~ Cabinet;

(f) A juvenile court judge;

(g) A local school district board of education member;

(h) A local school administrator;

(i) A school council parent representative;

(j) A teacher;

(k) A classified school employee; and

(l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

Section 122. KRS 158.443 is amended to read as follows:

(1) Each nonstate-government employee member of the board of directors for the Center for School Safety shall serve a term of two (2) years and may be reappointed, but a member shall not serve more than two (2) consecutive terms.

(2) The members who are nonstate-government employees shall be reimbursed for travel, meals, and lodging and expenses relating to official duties of the board from funds appropriated for this purpose.

(3) The board of directors shall meet a minimum of four (4) times per year. The board of directors shall be attached to the office of the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(4) The board of directors shall annually elect a chair and vice chair from the membership. The board may form committees as needed.

(5) Using a request-for-proposal process, the board of directors shall select a public university to administer the Center for School Safety for a period of not less than four (4) years unless funds for the center are not appropriated or the board determines that the university is negligent in carrying out its duties as specified in the request for proposal and contract.

The initial request for proposals shall be issued not later than September 15, 1998. The board shall select a university no later than January 1, 1999. The university shall be the fiscal agent for the center and:

(a) Receive funds based on the approved budget by the board of directors and the General Assembly's appropriation for the center. The center shall operate within the fiscal policies of the university and in compliance with policies established by the board of directors per the request for proposal and contract; and

(b) Employ the staff of the center who shall have the retirement and employee benefits granted other similar university employees.

(6) The board of directors shall annually approve:

(a) A work plan for the center;

(b) A budget for the center;

(c) Operating policies as needed; and

(d) Recommendations for grants, beginning in the 1999-2000 school year and subsequent years, to local school districts and schools to assist in the development of programs and individualized approaches to work with violent, disruptive, or academically at-risk students, and consistent with provisions of KRS 158.445.

(7) The board of directors shall prepare a biennial budget request to support the Center for School Safety and to provide program funds for local school district grants.

(8) The board shall develop model interagency agreements between local school districts and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services and sharing of costs for services to students who are at risk of school failure, are at risk of participation in juvenile crime, or have been expelled from the school district.

Section 123. KRS 158.794 is amended to read as follows:

(1) The Early Reading Incentive Grant Steering Committee is hereby created for the purpose of advising the Kentucky Board of Education and the Department of Education concerning the implementation and administration of the early reading incentive grant fund created by KRS 158.792. The committee shall be composed of fifteen (15) members including the commissioner of education or the commissioner's designee, the president of the Council on Postsecondary Education or the president's designee, the ***vice president of the Kentucky Adult Education Program***[~~commissioner of the Department for Adult Education and Literacy~~] or the ***vice president's***[~~commissioner's~~] designee, and the following members, to be appointed by the Governor:

(a) Two (2) primary program teachers with a specialty or background in reading and literacy;

(b) Eight (8) university professors with a specialty or background in reading and literacy representing each of the public universities; and

(c) Two (2) individuals from the state at large with background and interest in reading and literacy.

(2) Each member of the committee, other than members who serve by virtue of their position, shall serve for a term of three (3) years or until a successor is appointed and qualified, except that upon initial appointment, four (4) members shall serve a one (1) year term, four (4) members shall serve a two (2) year term, and four (4) members shall serve a three (3) year term.

(3) A majority of the full authorized membership shall constitute a quorum.

(4) The committee shall elect, by majority vote, a chair, who shall be the presiding officer of the committee, preside at all meetings, and coordinate the functions and activities of the committee. The chair shall be elected or reelected each calendar year.

(5) The committee shall be attached to the Department of Education for administrative purposes.

(6) The committee shall:

(a) Identify needs in schools throughout the state regarding reading and literacy programs;

(b) Develop criteria for the solicitation, review, and approval of grant applications provided under KRS 158.792;

(c) Develop a process for monitoring grants that are awarded; and

(d) Recommend approval of grant applications based upon criteria established by the committee.

Section 124. KRS 158.814 is amended to read as follows:

(1) In order to ensure that high-quality, relevant secondary career and technical programs are available to students in all school districts that enable them to gain the academic and technical skills to meet high school graduation requirements and for successful transition to postsecondary education, work, or the military and to support present-day and future needs of Kentucky employers, the Kentucky Department of Education and the ***Office of Career and***[~~Department for~~] Technical Education shall jointly implement a comprehensive plan between July 1, 2001, and January 1, 2004, to:

(a) Review and revise as needed the equipment and facilities standards for each career and technical education program identified and described in the career and technical supplement to the Kentucky program of studies and published by the Kentucky Department of Education; and

(b) Establish a needs assessment process tied to specific criteria for assisting all providers of programs in determining if the current programs offered in their respective facilities are appropriate for the students in the school districts served as well as for determining if new programs are needed.

(2) Representatives from local school districts, the Kentucky Community and Technical College System, business and industry, colleges, universities, and other appropriate agencies shall be consulted in carrying out the requirements of this section.

Section 125. KRS 158.816 is amended to read as follows:

(1) The Kentucky Department of Education and the ***Office of Career and***[~~Department for~~] Technical Education, with involvement of representatives from the local school districts and teacher preparation institutions, shall jointly complete an annual statewide analysis and report of academic achievement of technical education students who have completed or are enrolled in a sequence of a technical program of at least three (3) high school credits.

(2) The analysis shall include the previous year's results from the Commonwealth Accountability Testing System. The data shall be disaggregated for all high school students by career cluster areas of agriculture, business and marketing, human services, health services, transportation, construction, communication, and manufacturing and by special populations. Where available, disaggregated data from other national assessments shall also be used.

(3) (a) The Kentucky Department of Education, with assistance from the ***Office of Career and***[~~Department for~~] Technical Education, shall coordinate the development of a statewide technical assistance plan to aid providers of programs in identifying areas for improvement for those schools that do not meet their school performance goal and for those schools where technical students as a group do not score equal to or better than the school average in each of the academic areas. The plan shall address methodologies for further analysis at each school including, but not limited to:

1. The academic course-taking patterns of the technical students;
2. The rigor and intensity of the technical programs and expectations for student performance in reading, math, science, and writing and other academic skills as well as in technical skill development;
3. The level of communication and collaboration between teachers in technical programs and academic programs, planning, and opportunity for analyzing student achievement, particularly between faculty in the comprehensive high schools with the faculty in state-operated or locally operated secondary area centers and vocational departments;
4. The faculties' understanding of Kentucky's program of studies, academic expectations, and core content for assessment;
5. The knowledge and understanding of academic teachers and technical teachers in integrating mutually supportive curricula content;
6. The level of curricula alignment and articulation in grades eight (8) to sixteen (16);
7. The availability of extra help for students in meeting higher standards;
8. The availability and adequacy of school career and guidance counseling;
9. The availability and adequacy of work-based learning;
10. The availability and adequacy of distance learning and educational technology;
11. The adequacy of involvement of business and industry in curricula, work-based learning, and program development; and
12. The adequacy of teachers' preparation to prepare them for teaching both academic and technical skills to all students that are necessary for successful transition to postsecondary education, work, or the military.

(b) The ***Department of Education and the Office of Career and Technical Education***[~~departments~~], in cooperation with teacher preparation programs, postsecondary education institutions, and other appropriate partners, shall ensure that academic core content is imbedded or integrated within the performance requirements for students.

(c) The ***Department of Education and the Office of Career and Technical Education***[~~departments~~], in cooperation with the Kentucky Community and Technical College System, shall encourage postsecondary education and business and industry to provide professional development and training opportunities to engage technical faculty in continuous improvement activities to enhance their instructional skills.

(d) The ***Department of Education and the Office of Career and Technical Education***[~~departments~~] shall continue efforts with business and industry to develop occupation skill standards and assessments. All efforts shall be made with the involvement of business, industry, and labor. Skill standards and assessments, where available, shall be used as the focus of the curricula.

(4) The ***Department of Education and the Office of Career and Technical Education***[~~departments~~] shall consult with the Education Professional Standards Board in carrying out the requirements of this section as they relate to teacher preparation.

Section 126. KRS 158.796 is amended to read as follows:

The Governor's Scholars Program is established in the Office of the Secretary of the Education~~[, Arts, and Humanities]~~ Cabinet and shall be headed by an executive director appointed by the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet with approval by the Governor. This program shall be responsible for implementing an enrichment program for academically-gifted students.

Section 127. KRS 161.011 is amended to read as follows:

(1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and

(b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or high school certificate of completion or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations promulgated by the ***vice president of the Kentucky Adult Education Program, Council on Postsecondary Education***~~[commissioner of the Department for Adult Education and Literacy]~~.

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.

(5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:

(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.

(b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.

(6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.

(7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.

(8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.

(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.

(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.

(9) Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and

(c) Discipline guidelines and procedures that satisfy due process requirements.

(10) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(11) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Section 128. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, the Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;

(h) The ***Office of Career and***[~~Department for~~] Technical Education, except that the ***executive director***[~~commissioner~~] shall not be a member;

(i) The ***Office***[~~Department~~] of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the ***former*** Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System***, effective July 1, 1998,*** and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the ***former*** Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky

Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the ***former*** Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; and

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the ***former*** Cabinet for Workforce Development and the commissioners of the ***former*** Department for Adult Education and Literacy and the ***former*** Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.6455 or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the

services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

SECTION 129. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Adult Education Program is created to carry out the statewide adult education mission. The program shall implement a twenty (20) year state strategy to reduce the number of adults who are at the lowest levels of literacy and most in need of adult education and literacy services. The program shall have responsibility for all functions related to adult education and literacy.

(2) The Kentucky Adult Education Program is part of the Council on Postsecondary Education and shall be organized in a manner as directed by the president of the Council on Postsecondary Education. The program shall be headed by a vice president appointed by the president of the Council on Postsecondary Education.

(3) The Kentucky Adult Education Program, Council on Postsecondary Education, shall be the agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations.

Section 130. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;

(3) "Benchmarks" means objective measures developed where applicable or practical by the Council on Postsecondary Education to judge the performance of the postsecondary education system and progress toward the goals as stated in KRS 164.003(2);

(4) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Community and Technical College System;

(5) "Board of regents" means the governing board of each regional university and the Kentucky Community and Technical College System;

(6) "Committee" means the Strategic Committee on Postsecondary Education created in KRS 164.004;

(7) "Council" means the Council on Postsecondary Education created in KRS 164.011;

(8) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(9) "Goals" means the six (6) goals specified in KRS 164.003(2);

(10) "Independent institution" means a nonpublic postsecondary education institution in Kentucky whose instruction is not solely sectarian in nature, is accredited by a regional accrediting association recognized by the United States Department of Education, and is licensed by the Council on Postsecondary Education;

(11) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Community and Technical College System;

(12) "Kentucky Community and Technical College System" means the system composed of two (2) branches, which are:

(a) The Technical Institutions' Branch. This branch includes the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the ***former*** Cabinet for Workforce Development; and

(b) The University of Kentucky Community College System, with the exception of the Lexington Community College.

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

(13) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(14) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(15) "Nonteaching personnel" means any employee who is a full-time staff member, excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(16) "Postsecondary education system" means the following public institutions: University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;

(17) "P-16 council" or "council of partners" means a local or state council that is composed of educators from public and private preschools, elementary, secondary, and postsecondary education institutions, local board of education members, and may include community and business representatives that have voluntarily organized themselves for the purpose of improving the alignment and quality of the education continuum from preschool through postsecondary education as well as student achievement at all levels;

(18) "Public" means operated with state support;

(19) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law;

(20) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(21) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(22) "Strategic agenda" means the state strategic postsecondary education agenda described in KRS 164.0203; and

(23) "Technical institution" means an educational institution that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

Section 131. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality

of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~]. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;

(14) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

(15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and

occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

- (a) Consistency with the institution's mission and the strategic agenda;
- (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
- (c) Elimination of unnecessary duplication of programs within and among institutions; and
- (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;

(23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(25) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include but not be limited to the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;

(26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(27) Select and appoint a president of the council under KRS 164.013;

(28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;

(32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary

education system and the independent colleges and universities;

(33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;

(34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~], under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:

(a) Promote coordination of programs and responsibilities linked to the issue of adult education with the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] and with other agencies and institutions;

(b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;

(c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;

(d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and

(e) Administer the adult education and literacy initiative fund created under KRS 164.041; and

(35) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 132. KRS 164.0203 is amended to read as follows:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term objectives in furtherance of the long-term goals established in KRS 164.003(2).

(2) (a) The purpose of the strategic agenda is to further the public purposes under KRS 164.003 by creating high-quality, relevant, postsecondary education and adult education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education and adult education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions and providers that serve them; and

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) The council shall develop a strategic implementation plan, which may be periodically revised, to achieve the strategic agenda. The strategic agenda shall serve as a guide for institutional plans and missions.

(3) The framework for the strategic implementation plan of the strategic agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation plan for the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of Kentucky's employers.

(5) The council shall develop benchmarks using criteria that shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in

KRS 164.095.

(6) The council shall review the goals established by KRS 164.003(2) at least every four (4) years and shall review its implementation plan at least every two (2) years.

(7) In developing the strategic agenda, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda and strategic implementation plan, the council shall distribute copies to each local school district.

(8) The strategic agenda shall include a long-term strategy, developed in partnership with the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~], for raising the knowledge and skills of Kentucky's adult population, and ensuring lifelong learning opportunities for all Kentucky adults, drawing on the resources of all state government cabinets and agencies, business and civic leadership, and voluntary organizations.

Section 133. KRS 164.0207 is amended to read as follows:

(1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available training for educators in reliable, replicable research-based reading models, and to promote literacy development. The center shall be responsible for:

(a) Developing and implementing a clearinghouse for information about models addressing reading and literacy from the elementary grades through adult education;

(b) Collaborating with public and private institutions of postsecondary education and adult education providers to provide for teachers and administrators quality preservice and professional development in early reading instruction, including phonics instruction;

(c) Assisting districts located in areas with low levels of reading skills to assess and address identified literacy needs;

(d) Providing professional development and coaching for classroom teachers, including adult education teachers, implementing selected reliable, replicable research-based reading models;

(e) Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;

(f) Establishing a demonstration and training site for early literacy located at each of the public universities; and

(g) Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under KRS 164.041.

(2) The center shall submit an annual report on its activities to the Governor and the Legislative Research Commission no later than September 1 of each year.

(3) With the advice of the ***Kentucky Adult Education Program***[~~Department of Adult Education and Literacy in the Cabinet for Workforce Development~~] and the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location and monitor the progress of the center.

Section 134. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education, in consultation with the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] and the Collaborative Center for Literacy Development: Early Childhood through Adulthood, shall assess the need for technical assistance, training, and other support to assist in the development of adult education and workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The council shall promote the involvement of universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies.

Section 135. KRS 164.041 is amended to read as follows:

(1) There is created in the Council on Postsecondary Education, a special fund to be known as the adult education and literacy initiative fund, which shall consist of moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public and private, and interest accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be carried forward to be used only for the purposes specified in this section. Moneys accumulated in this fund on July 14, 2000, shall remain in the fund and be transferred to the Council on Postsecondary Education to be used for purposes stated in this section.

(2) The purpose of the adult education and literacy initiative fund shall be to support strategies for adult education, to provide statewide initiatives for excellence, and to provide funds for research and development activities.

(3) The council, in collaboration with the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~], shall establish the guidelines for the use, distribution, and administration of the fund, financial incentives, technical assistance, and other support for strategic planning; and guidelines for fiscal agents to assess county and area needs and to develop strategies to meet those needs.

(4) The fund shall include the following strategies:

(a) Statewide initiatives. Funds shall be used to encourage collaboration with other organizations, stimulate development of models of adult education programs that may be replicated elsewhere in the state, provide incentives for adults, employers, and providers to encourage adults to establish and accomplish learning contracts, provide incentives to encourage participation in adult education, assist providers of county and area programs in areas of highest need, and for other initiatives of regional or statewide significance as determined by the council. The Collaborative Center for Literacy Development: Early Childhood through Adulthood created under KRS 164.0207 shall evaluate the reading and literacy components of model programs funded under this paragraph.

(b) Research and demonstration. The funds shall be used to develop:

1. Standards for the preparation, professional development, and support for adult educators with the advice of the ***Kentucky Adult Education Program***~~[Department for Adult Education and Literacy]~~ and as compatible with funds provided under Title II of the Federal Workforce Investment Act;

2. A statewide competency-based certification for transferable skills in the workplace; and

3. A statewide public information and marketing campaign.

Section 136. KRS 164.477 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Alternative format" means any medium or format for the presentation of instructional materials other than standard print needed by a student with a disability for a reading accommodation, including but not limited to braille, large print texts, audio recordings, digital texts, and digital talking books;

(b) "Instructional material" means a textbook or other material published primarily for use by students in a course of study in which a student with a disability is enrolled that is required or essential to a student's success, as determined by the course instructor. "Instructional material" includes nontextual mathematics and science material to the extent that software is commercially available to permit the conversion of the electronic file of the material into a format that is compatible with assistive technologies such as speech synthesis software or braille translation software commonly used by students with disabilities;

(c) "Nonprinted instructional material" means instructional material in a format other than print, including instructional material that requires the availability of electronic equipment in order to be used as a learning resource, including but not limited to software programs, videodiscs, videotapes, and audio tapes;

(d) "Printed instructional material" means instructional material in book or other printed form;

(e) "Publisher" means an individual, firm, partnership, corporation, or other entity that publishes or manufactures instructional material used by students attending a public or independent postsecondary education institution in Kentucky;

(f) "State Repository for Alternative Format Instructional Materials" or "repository" means a consortium established or otherwise designated by the Council on Postsecondary Education under subsection (8) of this section to serve as a state repository for electronic files or alternative format instructional materials obtained from publishers, created by institutions, or received through other means;

(g) "Structural integrity" means the inclusion of all of the information provided in printed instructional material, including but not limited to the text of the material sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, and glossaries, but need not include nontextual elements such as pictures, illustrations, graphs, or charts; and

(h) "Working day" means a day that is not Saturday, Sunday, or a national holiday.

(2) The purpose of this section is to ensure, to the maximum extent possible, that all postsecondary students with a disability in Kentucky requiring reading accommodations, in accordance with Section 504 of the Rehabilitation Act, 29 U.S.C. sec. 794, or the Americans with Disabilities Act, 42 U.S.C. secs. 12101 et seq., including but not limited to students who are blind, are visually impaired, or have a specific learning disability or other disability affecting reading, shall have access to instructional materials in alternative formats that are appropriate to their disability and educational needs.

(3) A publisher shall, upon fulfillment of the requirements of subsections (6) and (7) of this section, provide to a postsecondary education institution or to the State Repository for Alternative Format Instructional Materials, at no cost:

(a) Printed instructional material in an electronic format; and

(b) Nonprinted instructional material in an electronic format, when the technology is available to maintain the material's structural integrity.

(4) Instructional material provided by a publisher in electronic format shall:

(a) Maintain the structural integrity of the original instructional material, except as provided for in paragraph (b) subsection (3) of this section;

(b) Be compatible with commonly used braille translation and speech synthesis software;

(c) Include corrections and revisions as may be necessary; and

(d) Be in a format that is mutually agreed upon by the publisher and the requesting institution or the State Repository for Alternative Format Instructional Materials. If good-faith efforts fail to produce an agreement as to an electronic format that will preserve the structural integrity of the instructional material, the publisher shall provide the instructional material in XML (Extensible Markup Language), utilizing an appropriate document-type definition suitable for the creation of alternative format materials, and shall preserve as much of the structural integrity of the original instructional material as possible.

(5) The publisher shall transmit or otherwise send an electronic format version of requested instructional material within fifteen (15) working days of receipt of an appropriately completed request. Should this timetable present an undue burden for a publisher, the publisher shall submit within the fifteen (15) working day period a statement to the requesting entity certifying the expected date for transmission or delivery of the file.

(6) (a) To receive an electronic format version of instructional material, a written request shall be submitted to the publisher that certifies:

1. The instructional material has been purchased for use by a student with a disability by the student or the institution the student attends or is registered to attend;

2. The student has a disability that prevents the student from using the standard instructional material; and

3. The instructional material is for use by the student in connection with a course in which he or she is registered or enrolled.

(b) A publisher may also require a statement signed by the student or, if the student is a minor, the student's parent or legal guardian, agreeing that the student will:

1. Use the electronic copy of the instructional material solely for his or her own educational purposes; and

2. Not copy or distribute the instructional material for use by others.

(7) The request for an electronic format version of instructional material shall be prepared and signed by:

(a) The coordinator of services for students with a disability at the institution;

(b) A representative of the ***Office***[~~Department~~] for the Blind;

(c) A representative of the ***Office***[~~Department~~] of Vocational Rehabilitation; or

(d) A representative of the State Repository for Alternative Format Instructional Materials.

(8) The Council on Postsecondary Education may, to the extent funds are available, establish or otherwise designate a consortium to be called the State Repository for Alternative Format Instructional Materials to serve as a state repository for electronic files and alternative format materials for the purpose of facilitating the timely access of appropriate alternative instructional materials by postsecondary students with a disability.

(9) The Council on Postsecondary Education may promulgate administrative regulations governing the implementation and administration of this section.

(10) The council shall work with representatives of each postsecondary institution to develop policies and procedures designed to ensure to the maximum extent possible that students with disabilities have access to instructional materials in appropriate alternative formats within the first week of class.

(11) The council, in consultation with appropriate entities, including but not limited to the ***Office***[~~Department~~] for the Blind, the Kentucky Assistive Technology Service Network, Recording for the Blind and Dyslexic, and the Kentucky Association on Higher Education and Disability, shall include within its annual status report on postsecondary education in Kentucky a continuing assessment of the need for statewide technical assistance, training, and other supports designed to increase the availability and effective use of alternative format instructional materials.

(12) The State Repository for Alternative Format Instructional Materials or the council may receive electronic files and alternative format materials from:

(a) Publishers;

(b) Postsecondary education institutions that have created alternative materials for use by a student with a disability;

(c) The Kentucky Department of Education, receiving electronic files from publishers under the requirements of KRS 156.027; or

(d) Other sources.

(13) The repository or the council shall, upon receipt of documents as set forth in subsection (6) of this section, provide at no cost copies of electronic files and alternative format materials to:

(a) Postsecondary education institutions in Kentucky; and

(b) The Kentucky Department of Education, to assist in the implementation of the requirements of KRS 156.027.

(14) The repository shall provide to a publisher, upon request:

(a) A summary of all electronic or alternative format versions of instructional material from that publisher provided to students, postsecondary education institutions, and the Kentucky Department of Education from its holdings; and

(b) Copies of requests and related certification documents received for instructional materials from that publisher.

(15) The repository or the council may submit requests for electronic files to publishers on behalf of institutions.

(16) (a) A postsecondary education institution or an educational instructor, assistant, or tutor may assist a student with a disability by using the electronic format version of instructional material as provided by this section solely to transcribe or arrange for the conversion of the instructional material into an alternative format, or to otherwise assist the student.

(b) If an alternative format version of instructional material is created, an institution may, for the purpose of providing the version to other students with disabilities, share that version with:

1. The repository;
2. A Kentucky postsecondary education institution serving a student with a disability; and
3. An authorized entity as defined under 17 U.S.C. sec. 121 that commonly provides alternative format materials for use by students in Kentucky institutions.

(17) The disk or file of an electronic format version of instructional material used directly by a student shall be copy-protected, or reasonable precautions shall be taken by the institution to ensure that the student does not copy or distribute the electronic format version in violation of the Copyright Revisions Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.

(18) Nothing in this section shall be deemed to authorize any use of instructional materials that would constitute an infringement of copyright under the Copyright Revision Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.

(19) Nothing in this section shall absolve covered entities from the obligation to provide equivalent access to information technology and software as set forth in KRS 61.982.

(20) A publisher shall be considered a place of public accommodation for the purposes of KRS 344.130. Failure to comply with the requirements of this section shall be an unlawful practice of discrimination on the basis of disability for the purposes of KRS 344.120.

Section 137. KRS 164.478 is amended to read as follows:

(1) It is the intent of the General Assembly to increase the educational level of deaf and hard of hearing persons by assuring them an equal opportunity to obtain an education in the public postsecondary institutions.

(2) The public postsecondary institutions shall make their programs accessible to deaf and hard of hearing students by providing support services necessary for such students to fully participate in the programs. The support services shall include, but not be limited to, interpreters and notetakers in the classroom and equal access to all support services available to those who are not deaf or hard of hearing. Appropriate assistive listening devices and alerting devices shall be available in dormitories housing deaf or hard of hearing students.

(3) (a) The General Assembly shall appropriate funds to the ***Office***[~~Department~~] of Vocational Rehabilitation excluding costs of capital equipment or modifications for installation of assistive listening or alerting devices to cover the costs of support services at the institutions for students who are deaf or hard of hearing.

(b) The ***Office***[~~Department~~] of Vocational Rehabilitation shall administer funding of support services at institutions for students who are deaf or hard of hearing contingent on General Assembly funding. The postsecondary institutions and the ***Office***[~~Department~~] of Vocational Rehabilitation shall cooperate to assure that funds are used to effectively provide support services to students who are deaf and hard of hearing.

(c) The funds shall be distributed to institutions based upon actual costs or established fees for service of providing support services to individual students.

Section 138. KRS 164.5805 is amended to read as follows:

(1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the ***former*** Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the ***former*** Cabinet for Workforce Development to the Kentucky Community and Technical College System.

(a) The staff positions in the ***former*** Department for Technical Education and the ***former*** Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.

(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical

College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the ***former*** Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;
2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;
3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;
4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under KRS 161.220 or the Kentucky Employees Retirement System under KRS 61.525;
5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and
6. Employees shall be provided life insurance coverage and optional insurance or investment programs.

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the ***former*** Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board.

Section 139. KRS 309.308 is amended to read as follows:

(1) There is hereby created a committee to be known as the "Kentucky Board of Interpreters for the Deaf and Hard of Hearing Policy Committee."

(2) The committee shall consist of eleven (11) members as follows:

(a) The president or a designee of:

1. Kentucky Association of the Deaf; and
2. Kentucky Registry of Interpreters for the Deaf;

(b) A representative from:

1. Kentucky Commission on the Deaf and Hard of Hearing (KCDHH);
2. Eastern Kentucky University Interpreter Training Program;
3. Kentucky Department of Education;
4. Kentucky ***Office***~~[Department]~~ of Vocational Rehabilitation;
5. Kentucky School for the Deaf;
6. Cabinet for Families and Children; and
7. Cabinet for Health Services; and

(c) Two members-at-large, who are consumers, appointed by the board.

(3) The members of the committee shall receive no compensation for their services on the committee. The member from the Kentucky Association of the Deaf, the member from the Kentucky Registry of Interpreters for the Deaf, and the members-at-large shall be reimbursed for actual and necessary expenses incurred in the performance of their committee duties.

Section 140. KRS 314.452 is amended to read as follows:

(1) As used in KRS 314.450 to 314.464, "board" means the board of the Nursing Workforce Foundation.

(2) The Nursing Workforce Foundation is created and shall be governed by a board comprised of members who are residents of Kentucky appointed by the Governor.

(3) The foundation shall be governed by a board, the membership of which shall consist of the following:

  (a) President, or a designee, of the Kentucky Community and Technical College System;

  (b) President, or a designee, of the Association of Independent Kentucky Colleges and Universities;

  (c) President, or a designee, of the Council on Postsecondary Education;

  (d) Secretary, or a designee, of the ***Education***~~[Kentucky]~~ Cabinet~~[for Workforce Development]~~;

  (e) Executive Director, or a designee, of the Kentucky Board of Nursing;

  (f) President, or a designee, of the Kentucky Nurses Association;

  (g) President, or a designee, of the Kentucky Coalition of Nurse Practitioners and Nurse Midwives;

  (h) President, or a designee, of the Kentucky Council of Associate Degree Nursing Programs;

  (i) Chair, or a designee, of the Kentucky Association of Baccalaureate and Higher Degree Nursing Programs; and

  (j) Two (2) members from a list of three (3) individuals recommended by the Kentucky Hospital Association, with one (1) representing a rural hospital and one (1) representing an urban hospital.

(4) The board shall elect a chairman from its members. The board shall meet at least four (4) times a year and at the call of the chairman or a majority of the board members. A majority of the board membership shall constitute a quorum.

(5) Each hospital representative appointment shall be for a term of four (4) years. A vacancy on the board shall be filled by the Governor as provided under this section.

(6) Members of the board shall be entitled to reimbursement for expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement.

(7) The board shall employ or contract with a qualified person or nonprofit organization to serve as executive director to the board and shall fix the compensation and define the duties. The executive director shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may employ or contract with other persons as may be necessary to carry on the work of the board.

(8) The board shall be a nonprofit, quasi-governmental corporation subject to the Kentucky Open Records Law and Kentucky Open Meetings Law. The board shall have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of KRS 314.450 to 314.464.

(9) The provisions of KRS 314.450 to 314.464 shall be funded by any grants, gifts, and contributions received by the board or other general funds appropriated by the General Assembly.

Section 141. KRS 314.464 is amended to read as follows:

Each school of nursing as defined under KRS 314.011 that is located in Kentucky, whether or not awarded funding under KRS 314.450 to 314.464, shall submit an annual report by August 1 to the board, the Kentucky Board of Nursing, the Council on Postsecondary Education, the ***Education*** Cabinet~~[for Workforce Development]~~, and the Legislative Research Commission detailing its strategies for increasing the enrollment of students who graduate from the program prepared for licensure as registered nurses or licensed practical nurses. Efforts undertaken by each school to increase cultural diversity within its nursing students shall be included in the annual report to the board.

Section 142. KRS 341.005 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Cabinet" means the ***Education*** Cabinet~~[for Workforce Development]~~.

(2) "Secretary" means the secretary ***of the Education Cabinet***~~[for workforce development]~~ or his ***or her*** duly authorized representative.

(3) "Commission" means the unemployment insurance commission.

Section 143. KRS 341.080 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) Except in so far as the ***Education*** Cabinet~~[for Workforce Development]~~ by regulation prescribes the equivalent thereof to meet particular conditions:

  (a) "Calendar year" means a year beginning on January 1; and

  (b) "Calendar quarter" means three (3) consecutive months beginning on January 1, April 1, July 1, or October 1;

(2) "Week" means such period of seven (7) consecutive calendar days as the ***Education*** Cabinet~~[for Workforce Development]~~ by regulation prescribes; and

(3) "Week of unemployment" means any period of seven (7) consecutive days, as prescribed by ***Education*** Cabinet~~[for Workforce Development]~~ ***administrative*** regulations, during which a worker performed less than full-time work and earned less than an amount equal to one and one-fourth (1-1/4) times the benefit rate determined for him in accordance

with the provisions of subsection (2) of KRS 341.380.

Section 144. KRS 341.110 is amended to read as follows:

(1) In the ***Education*** Cabinet~~[for Workforce Development]~~ there shall be an Unemployment Insurance Commission composed of the secretary ***of Education*** or his ***or her*** duly authorized representative, as ex officio chairman and two (2) members appointed by the Governor.

(2) The secretary shall represent the state and the public. One (1) member shall be appointed as a representative of labor and one (1) as a representative of employers. The chairman and one (1) other member of the commission shall constitute a quorum.

(3) The members representing labor and employers shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their offices. They shall be citizens of this state and not less than thirty (30) years of age.

(4) The terms of each member appointed to represent labor and employers shall be for four (4) years from the date of appointment and until a successor is appointed and qualified, except that appointments to vacancies shall be for the unexpired term.

(5) The compensation of the members representing labor and employers shall be $12,000 each per annum.

Section 145. KRS 341.125 is amended to read as follows:

(1) It shall be the duty of the secretary ***of the Education Cabinet*** to administer this chapter; and he ***or she*** shall have power and authority to make such expenditures, require such reports, make such investigations, and take such other action, not specifically assigned to the cabinet~~[for Workforce Development]~~, as he ***or she*** deems necessary for the proper administration of this chapter.

(2) The secretary is authorized, subject to the provisions of KRS Chapters 12, 42, 45, and 45A, to appoint, fix the compensation and prescribe duties and powers of such officers and employees as may be necessary in the performance of his ***or her*** duties under this chapter. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any such person so appointed such power and authority as he ***or she*** deems reasonable and proper for the effective administration of this chapter.

(3) The salary and expenses of the secretary and his ***or her*** staff shall be considered a proper cost of the administration of this chapter, to be charged to the unemployment compensation administration fund in that proportion which the cost of such services rendered in the administration of this chapter bears to the overall cost of the services rendered in the administration of the cabinet.

(4) The secretary shall submit to the Governor an annual report covering the administration and operation of this chapter and make such recommendations for amendments to this chapter as he ***or she*** deems proper.

(5) In the administration of this chapter the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state or of the United States and shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure for this state and its citizens all the advantages available under the provisions of the Social Security Act, as amended, that relate to unemployment compensation, the Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended, and the Federal-State Extended Unemployment Compensation Act of 1970.

Section 146. KRS 341.145 is amended to read as follows:

(1) The secretary ***of the Education Cabinet*** may enter into arrangements with the appropriate agencies of other states or of the federal government, or both, for the purpose of assisting the secretary and such agencies in the payment of benefits and the furnishing of services to unemployed or underemployed workers. Such arrangements may provide that the respective agencies shall, for and on behalf of each other, act as agents in effecting registrations for work, notices of unemployment, and any other certifications or statements relating to a worker's claim for benefits; in making investigations, taking depositions, holding hearings, or otherwise securing information relating to benefit eligibility and payments; and in such other matters as the secretary considers suitable in effectuating the purpose of these administrative arrangements.

(2) The secretary may enter into arrangements with the appropriate agencies of other states or the federal government whereby workers performing services in this and other states for a single employing unit under circumstances not specifically provided in KRS 341.050, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states.

(3) (a) The secretary shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states or the federal government which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two (2) or more state unemployment compensation laws, and avoiding the duplicate use

of wages and employment by reason of such combining. Reimbursements to another state or the federal government, paid from the fund pursuant to this subsection, shall be deemed to be benefits for the purposes of this chapter and charged to contributory employers' reserve accounts and reimbursing employers' accounts in accordance with the provisions of subsections (2) and (3) of KRS 341.530 to the extent of calculations made on wages paid during the base period established by KRS 341.090 and wages paid after such base period; provided, however, benefits based on a period previous to the base-wage period established by KRS 341.090 shall be charged to the pooled account for contributing employers only. Provided, that if the Secretary of Labor determines that the charging of reimbursements provided above is inconsistent with the requirements of the Federal Unemployment Tax Act, charges of such reimbursements shall then be made in accordance with regulations prescribed by the secretary.

(b) In order that such reciprocal arrangements, when entered into, may be effectuated, wages for insured work under an employment security law of another state or of the federal government shall be deemed to be wages earned in covered employment from a subject employer for the purpose of determining his benefits under this chapter.

(4) Notwithstanding any other provision of this chapter, benefits shall not be denied or reduced to an individual solely because he files a claim in another state (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another state (or such a contiguous country) at the time he files a claim for benefits.

(5) To the extent permissible under the laws and Constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the United States Secretary of Labor or both, whereby:

(a) Overpayments of unemployment benefits, as determined under this chapter, shall be recoverable (after due notice and opportunity for appeal has been provided to the claimant) by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state, in either the current or any subsequent benefit year, in an amount equivalent to the amount of overpayment determined under this chapter, provided the ***Office of Employment and Training, Department of Workforce Investment,***[~~department~~] certifies to the other state the facts involved and that the claimant is liable to repay the benefits and the ***office***[~~department~~] requests the other state to recover the benefits; and

(b) Overpayments of unemployment benefits, as determined under the unemployment compensation law of another state, shall be recoverable (after such state has provided due notice and opportunity for appeal to the claimant) by offset from unemployment benefits otherwise payable under this chapter, in either the current or subsequent benefit year, in an amount equivalent to the amount of overpayment determined by such other state, provided such state certifies to the ***office***[~~department~~] the facts involved and that the individual is liable to repay the benefits and the state requests the ***office***[~~department~~] to recover the benefits; and

(c) Provided there is in effect a reciprocal agreement between this state and the United States Secretary of Labor, as authorized by Section 303(g)(2) of the Social Security Act, the overpayment of unemployment benefits or allowances for unemployment provided under a federal program administered by this state shall be recoverable by offset from benefits otherwise payable under this chapter or any such federal program. Such agreement shall also suffice to permit the offset from unemployment benefits, otherwise payable under a federal program administered by this state, the overpayment of unemployment benefits paid under this chapter.

If another state also has in effect a like agreement with the United States Secretary of Labor, then these provisions for cross-offset of state and federal unemployment benefits shall apply to benefits otherwise payable under this chapter, the laws of the other state or any federal unemployment program administered by either state.

Section 147. KRS 341.190 is amended to read as follows:

(1) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the secretary ***of the Education Cabinet***[~~for workforce development~~] considers necessary for the proper administration of this chapter. The records shall be open for inspection and subject to being copied by the secretary or his ***or her*** authorized representatives at any reasonable time and as often as necessary.

(2) The secretary[~~ for workforce development~~] may require any employing unit to furnish to the cabinet at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid off, an individual wage and hour record of each worker employed part time entitled to benefits, and other related matters, including hours worked, which the secretary[~~ for workforce development~~] considers necessary to the effective administration of this chapter.

(3) Information obtained from an employing unit or individual and other records made by the cabinet in the administration of this chapter are confidential and shall not be published or be open for public inspection, except as provided below:

(a) Information may be made available to public employees in the performance of their duties, but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released.

(b) A claimant or employing unit or his legal representative shall be provided upon request information or records maintained by the cabinet in the administration of his claim, his reserve account, his reimbursing employer account, or any proceeding under this chapter to which he is a party.

(c) Statistical information derived from information and records obtained or made by the cabinet may be published, if it in no way reveals the identity of any claimant or employing unit.

(d) Nothing in this section shall preclude the secretary or any employee of the cabinet from testifying in any proceeding under this chapter or in any court, or from introducing as evidence information or records obtained or made by the cabinet in an action for violation of state or federal law to which the cabinet is a party or upon order of the court.

(4) No information or records held confidential under subsection (3) of this section shall be the subject matter or basis for any suit for slander or libel in any court, but no employer or employee, or his representative, testifying before the commission, the secretary, or any duly authorized representative thereof, shall be exempt from punishment for perjury.

Section 148. KRS 341.200 is amended to read as follows:

(1) In the discharge of the duties imposed by this chapter members of the commission, the secretary or any duly authorized representative thereof, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence in connection with the administration of this chapter. Such subpoena shall be served in the same manner as a subpoena issued out of a Circuit Court, and the sheriff shall receive the same fee as provided by law for like service in civil actions. Witnesses subpoenaed shall be allowed witnesses' fees according to the rates prescribed by KRS 421.015 for each day their attendance is actually required at a hearing.

(2) The secretary, ***or the commission,*** or any ***of their*** authorized ***representatives***[~~representative of the secretary~~], shall have the power, in any and all counties of this Commonwealth, now granted by law to sheriffs within their respective jurisdictions, to execute and make due return of all notices, summonses, including summonses duces tecum, subpoenas, and executions in respect to all court actions instituted to enforce the provisions of this chapter.[~~ Neither~~] The secretary***, a member of the commission, or any of their authorized representatives***[~~nor his authorized representative~~] shall ***not*** be deemed to be an interested party in the action by reason of his official or representative capacity.

Section 149. KRS 341.230 is amended to read as follows:

The secretary may authorize the destruction of such original reports and records as have been properly recorded and summarized in the permanent records of the ***Education*** Cabinet[~~ for Workforce Development~~] or are no longer considered necessary for the proper administration of this chapter. Wage records of the individual worker or transcripts thereof may be destroyed or disposed of two (2) years after the expiration of the period covered by them or upon proof of death of the worker. Such destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of such records shall be deposited to the credit of the unemployment compensation administration fund.

Section 150. KRS 341.243 is amended to read as follows:

(1) There is created within the State Treasury a special fund known as the service capacity upgrade fund that shall be administered separate and apart from all public money or funds of the state.

(2) The service capacity upgrade fund shall be used solely for acquisition and upgrading of the technology base, program integrity functions, and service delivery capacity in support of the programs administered by the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~]. The secretary shall have full power, authority, and jurisdiction over the fund, including all money, property, and securities belonging thereto, and shall perform any act necessary or convenient in the administration of the fund consistent with this section. The secretary shall provide an annual report to the Interim Joint Committee on Labor and Industry detailing all receipts and expenditures of the fund.

(3) Any money collected under the provisions of this section shall be invested at interest in banks or other interest-bearing obligations of the United States. Investments shall at all times be made so that all the assets of the service capacity upgrade fund shall be convertible into cash when needed for the payment of expenses incurred in upgrading the service capacity of the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~]. All interest income received under this section shall be credited to the fund. The State Treasurer shall dispose of securities or other property belonging to the fund only under the direction of the secretary and the secretary of the Finance and Administration Cabinet.

(4) Effective January 1, 1999, all rates otherwise established under KRS 341.270 and 341.272 shall be reduced by subtracting seventy-five thousandths percent (0.075%) from each rate, but only if the trust fund balance as of December 31 of the preceding year is equal to or greater than one and eighteen hundredths percent (1.18%) of the total wages paid in the state during the state fiscal year ended as of June 30 of that year.

(a) If the trust fund balance as of December 31, 1999, is less than the trust fund balance as of December 31, 1998, the amount of the rate reduction for calendar year 2000 shall be reduced by forty percent (40%) to the level of forty-five thousandths percent (0.045%).

(b) If the trust fund balance as of December 31, 2000, is less than the trust fund balance as of December 31, 1999, the amount of the rate reduction for calendar year 2001 shall be forty percent (40%) less than the amount of the rate reduction which was in effect in calendar year 2000.

(5) For any calendar year in which all rates have been reduced in accordance with subsection (4) of this section, all

contributory employers shall pay into the service capacity upgrade fund an amount equal to the percentage by which rates were reduced multiplied by their taxable wages paid during that calendar year. Payments shall be made at the same time and in the same manner as prescribed for payment of contributions under KRS 341.260 and all regulations prescribed by the secretary in support of that section. The restrictions in KRS 341.470(1) apply equally to the provisions of this section. Failure to make these payments shall be subject to interest and all other collection actions provided for failure to make contributions under KRS 341.300.

(6) All payments required under subsection (5) of this section, along with any interest due to late payment of these assessments, shall be deposited in the service capacity upgrade fund.

(7) The provisions of this section shall expire with regard to rates assigned for calendar years beginning after December 31, 2001, and any balance of moneys or property in the fund not expended or obligated for purposes consistent with this section by June 30, 2002, shall be deposited in the unemployment insurance trust fund.

Section 151. KRS 341.245 is amended to read as follows:

Subject to the provisions of KRS 56.440 to 56.550, inclusive, the secretary ***of the Education Cabinet*** is authorized and empowered to use all or any part of the funds accumulated under the provisions of KRS 341.295 for the purpose of acquiring suitable space for either central or district offices of the cabinet by way of purchase, lease, contract, or in any other manner including the right to use said funds or any part thereof to assist in financing the construction of any building erected by the Commonwealth or any of its agencies wherein available space will be provided for the cabinet under lease or contract between the cabinet and the Commonwealth or such other agency whereby said cabinet will continue to occupy such space, rent free, after the cost of financing such building has been liquidated.

Section 152. KRS 341.250 is amended to read as follows:

(1) Any employing unit that becomes subject to this chapter within any calendar year shall be considered a subject employer during the whole of that calendar year, except as specifically provided elsewhere in this section or this chapter.

(2) Except as provided in subsections (3) and (5) of this section, a subject employer shall cease to be a subject employer only as of the first day of January of any calendar year if he files with the ***Office of Employment and Training, Department of Workforce Investment***[~~department~~], on or before the fifteenth day of April of that year, a written application for termination of coverage, and the covered employment performed for such subject employer within the preceding calendar year was not sufficient to render an employing unit a subject employer under KRS 341.070. The secretary may, however, after notifying such employer in writing at his last known address, terminate the coverage of any subject employer as of the first day of January of any calendar year if such subject employer has had no individuals in covered employment in this state at any time during the three (3) preceding calendar years, and the balance of such employer's reserve account may be immediately transferred to the pooled account.

(3) (a) Any employing unit not otherwise subject to this chapter that files with the ***office***[~~department~~] its written election to become a subject employer for not less than two (2) calendar years shall, with the written approval of such election by the secretary, become subject hereto to the same extent as all other subject employers, as of the date stated in such approval, but not with respect to the period previous to such date. Such subject employer shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two (2) calendar years, only if on or before April 15 of such year, it has filed with the ***office***[~~department~~] a written notice to that effect.

(b) Any employing unit for which services that do not constitute covered employment are performed may file with the ***office***[~~department~~] a written election that all such services performed by individuals in its employ in one (1) or more distinct establishments or places of business shall be considered to constitute covered employment by a subject employer for all the purposes of this chapter for not less than two (2) calendar years. Upon written approval of such election by the secretary, such services shall be considered to constitute covered employment from and after the date stated in such approval, but not with respect to the period previous to such date. Such services shall cease to be considered covered employment subject hereto as of January 1 of a calendar year subsequent to such two (2) calendar years, only if on or before April 15 of such year such employing unit has filed with the ***office***[~~department~~] a written notice to that effect.

(c) Any employing unit having service performed in covered employment solely by reason of paragraph (h) of subsection (1) of KRS 341.050 may terminate such service as "covered employment" as of the first day of January of any calendar year if such service does not meet the provisions of paragraph (e), (f) or (g), but only if on or before April 15 of such year, the employing unit has filed with the ***office***[~~department~~] a written request to terminate service as "covered employment."

(4) An employing unit that becomes a subject employer under subsection (7) of KRS 341.070, shall become subject as of the date of acquisition.

(5) Notwithstanding the provisions of subsections (1), (2), and (3) of this section, any subject employer whose entire reserve account has been transferred to a successor in interest as provided for in KRS 341.540 shall immediately cease to be a subject employer and shall thereafter become a subject employer only upon his future employment experience.

Section 153. KRS 341.260 is amended to read as follows:

(1) Contributions shall accrue and become payable by each subject employer for each calendar year in which he is subject to

this chapter. Such contributions shall be based upon wages paid during such calendar year for covered employment. Such contributions shall become due and be paid at the offices of the ***Office of Employment and Training, Department of Workforce Investment,***~~[department]~~ in Frankfort by each subject employer to the ***office***~~[department]~~ for the fund in accordance with such regulations as the secretary prescribes, and shall not be deducted in whole or in part from the wages of workers in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded, unless it amounts to one-half cent ($0.005) or more, in which case it shall be increased to one cent ($0.01).

(2) Any contractor, who is or becomes a subject employer under the provisions of this chapter, who contracts with any subcontractor, who also is or becomes a subject employer under the provisions of this chapter, shall withhold sufficient moneys on said contract to guarantee that all contributions, penalties, and interest are paid upon completion of said contract, or shall require of said subcontractor a good and sufficient bond guaranteeing payment of all contributions, penalties, and interest due, or to become due with respect to wages paid for employment on said contract. Failure to comply with the provisions of this section shall render said contractor directly liable for such contributions, penalties, and interest due from said subcontractor and the wages paid by said subcontractor shall be deemed wages paid by the said contractor with respect to the same periods for all purposes under this chapter, and liens of the same nature are attachable and enforceable in the same manner as liens under KRS 341.310 and 341.315. A person, employing unit, or entity that enters into a verbal or written agreement with another, or between which there exists an implied contract based upon the circumstances, conduct, or acts or relations of the parties:

(a) To have work performed consisting of the removal, excavation or drilling of soil, rock, or mineral, or the cutting or removal of timber from land, or

(b) To have work performed of a kind which is a customary or a recurrent part of the work of the trade, business, occupation, or profession of such person or entity, shall for the purposes of this subsection be deemed a contractor, and such other person or entity a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.

Section 154. KRS 341.270 is amended to read as follows:

(1) Except as otherwise provided in this section, each employer's contribution rate shall be three percent (3%). Effective for employers who become subject to this chapter on or after January 1, 1999, except as otherwise provided in this section, each employer's contribution rate shall be two and seven-tenths percent (2.7%).

(2) Except as otherwise provided in this section, no subject employer's contribution rate shall be less than two and seven-tenths percent (2.7%), unless he has been an employer subject to the provisions of this chapter for twelve (12) consecutive calendar quarters ended as of the computation date. In any calendar year in which the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no subject employer who was assigned an entry rate of three percent (3.0%) under the provisions of subsection (1) of this section prior to January 1, 1999, shall have a contribution rate less than two and eight hundred fifty-seven thousandths percent (2.857%), unless subject to this chapter for the minimum time period specified above.

(3) For the calendar year 2001 and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. For each calendar year, the secretary shall determine the rate schedule to be in effect based upon the "trust fund balance" as of December 31 of the preceding year. If the "trust fund balance":

(a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total wages paid in covered employment in the state during the state fiscal year ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy Rates" schedule of "Table A" shall be in effect.

(b) Equals or exceeds three hundred fifty million dollars ($350,000,000) but is less than the amount required to effectuate the "Trust Fund Adequacy Rates" schedule as provided in paragraph (a) of this subsection, the rates listed in "Schedule A" of "Table A" shall be in effect.

(c) Equals or exceeds two hundred seventy-five million dollars ($275,000,000) but is less than three hundred fifty million dollars ($350,000,000), the rates listed in "Schedule B" of "Table A" shall be in effect.

(d) Equals or exceeds two hundred fifty million dollars ($250,000,000) but is less than two hundred seventy-five million dollars ($275,000,000), the rates listed in "Schedule C" of "Table A" shall be in effect.

(e) Equals or exceeds one hundred fifty million dollars ($150,000,000) but is less than two hundred fifty million dollars ($250,000,000), the rates listed in "Schedule D" of "Table A" shall be in effect.

(f) Is less than one hundred fifty million dollars ($150,000,000), the rates listed in "Schedule E" of "Table A" shall be in effect.

(4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A," as set out below, effective with respect to the calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A
Rate Schedule

Employer Reserve Ratio	Trust Fund Adequacy Rates	A	B	C	D	E
8.0% and over	0.000%	0.30%	0.40%	0.50%	0.60%	1.00%
7.0% but under 8.0%	0.000%	0.40%	0.50%	0.60%	0.80%	1.05%
6.0% but under 7.0%	0.008%	0.50%	0.60%	0.70%	0.90%	1.10%
5.0% but under 6.0%	0.208%	0.70%	0.80%	1.00%	1.20%	1.40%
4.6% but under 5.0%	0.508%	1.00%	1.20%	1.40%	1.60%	1.80%
4.2% but under 4.6%	0.808%	1.30%	1.50%	1.80%	2.10%	2.30%
3.9% but under 4.2%	1 .008%	1.50%	1.70%	2.20%	2.40%	2.70%
3.6% but under 3.9%	1.308%	1.80%	1.80%	2.40%	2.60%	3.00%
3.2% but under 3.6%	1.508%	2.00%	2.10%	2.50%	2.70%	3.10%
2.7% but under 3.2%	1.608%	2.10%	2.30%	2.60%	2.80%	3.20%
2.0% but under 2.7%	1.708%	2.20%	2.50%	2.70%	2.90%	3.30%
1.3% but under 2.0%	1.808%	2.30%	2.60%	2.80%	3.00%	3.40%
0.0% but under 1.3%	1.908%	2.40%	2.70%	2.90%	3.10%	3.50%
-0.5% but under -0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%
-1.0% but under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%
-1.5% but under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%
-2.0% but under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%
-3.0% but under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%
-4.0% but under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%
-6.0% but under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%
-8.0% but under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%

Less than -8.0%.	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

(a) "Trust fund balance" means the amount of money in the unemployment insurance fund, less any unpaid advances made to the state under Section 1201 of the Social Security Act. In determining the amount in the fund as of a given date all money received by the ***Office of Employment and Training, Department of Workforce Investment,***[~~department~~] on that date shall be considered as being in the fund on that date.

(b) "Total wages" means all remuneration for services, as defined in KRS 341.030(1) to (7), paid by subject employers.

(c) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the twelve (12) consecutive calendar quarters ended as of September 30 immediately preceding the computation date.

(d) For the purposes of this section, an employer's "reserve account balance" means the amount of contributions credited to his reserve account as of the computation date, less the benefit charges through September 30 immediately preceding the computation date. If benefits charged to an account exceed contributions credited to the account, the account shall be considered as having a debit balance and a reserve ratio of "less than zero."

(e) "Computation date" is October 31 of each calendar year prior to the effective date of new rates of contributions.

Section 155. KRS 341.275 is amended to read as follows:

(1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code. For the purpose of this section, "cabinet" shall mean the ***Education*** Cabinet[~~ for Workforce Development~~] and "secretary" shall mean the secretary ***of the Education Cabinet***[~~for workforce development~~].

(2) Any nonprofit organization which, pursuant to KRS 341.070(4), is, or becomes, a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay to the cabinet for the fund an amount equal to the amount of regular benefits and of one-half (1/2) of the extended benefits paid to workers for weeks of unemployment that is attributable to service in the employ of the nonprofit organization, performed during the effective period of the election but only if the employer is the worker's most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for that employer in each of ten (10) weeks whether or not consecutive.

(a) Any nonprofit organization which is, or becomes, a subject employer on July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of 1972 and the calendar year of 1973, provided it files with the cabinet a written notice of its election within the thirty (30) day period immediately following such date.

(b) Any nonprofit organization which becomes a subject employer after July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the period of subjectivity during the year in which such subjectivity begins and the following calendar year by filing a written notice of its election with the cabinet not later than thirty (30) days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with paragraph (a) or paragraph (b) of this subsection will continue to be liable for payments in lieu of contributions until it files with the secretary a written notice terminating its election not later than thirty (30) days prior to the beginning of the calendar year for which such termination shall first be effective, except that liability for payments in lieu of contributions shall continue thereafter with respect to wages paid prior to the effective date of such termination.

(d) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to July 1, 1972, may change to a reimbursable basis by filing with the cabinet not later than thirty (30) days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such organization for that and the following year.

(e) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The secretary shall notify each nonprofit organization of any determination which may be made of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).

(3) Payments in lieu of contributions shall be made in accordance with the provisions of this subsection.

(a) At the end of each calendar quarter, the cabinet shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such quarter plus any prior period adjustments, which are attributable to service performed in covered employment in the employ of such organization.

(b) Payment of any bill rendered under paragraph (a) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.

(c) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the organization.

(d) The amount due specified in any bill from the secretary shall be conclusive on the organization unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the ***commission***~~[cabinet]~~, setting forth the grounds for such appeal. Proceedings on appeal to the ***commission***~~[cabinet]~~ from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430 and the decision of the ***commission***~~[cabinet]~~ shall be subject to review under the provisions of KRS 341.460(1).

(e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest, penalties, collection service, and lien provisions that, pursuant to KRS 341.300 to 341.310, apply to past-due contributions.

(4) (a) The secretary may, in accordance with regulations prescribed by the cabinet, require any nonprofit organization that elects to become liable for payments in lieu of contributions to deposit with the cabinet, within thirty (30) days after the effective date of its election as a condition thereof, money equal to two percent (2%) of the organization's total wages paid for employment as defined in KRS 341.050(1)(e) for the four (4) calendar quarters immediately preceding the effective date of such election. If the nonprofit organization did not pay wages in each of such four (4) calendar quarters, the amount of the deposit shall be as determined by the secretary.

(b) Money deposited in accordance with this subsection shall be retained by the cabinet in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The cabinet may deduct from the money deposited under this subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in paragraph (e) of subsection (3) of this section. The secretary shall require the organization within thirty (30) days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the organization's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within thirty (30) days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.

(c) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the secretary may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; provided, that the secretary may extend for good cause the applicable filing, deposit, or adjustment period by not more than sixty (60) days.

(5) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year.

(6) Notwithstanding any other section of this chapter, no employing unit electing to make payments in lieu of contributions under the provisions of this section shall be entitled to relief of benefit charges.

Section 156. KRS 341.300 is amended to read as follows:

(1) Contributions unpaid on the date on which they are due and payable, as prescribed by the secretary, shall be subject to interest at the rate of one and five-tenths percent (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the amount of such contributions, from and after such date until payment is received by the ***Office of Employment and Training, Department of Workforce Investment***~~[department]~~, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section or is the subject of an administrative appeal or court action. Such interest shall be paid into the unemployment compensation administration fund.

(2) If, after due notice, any subject employer defaults in any payment of contributions, interest or penalties thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending upon the jurisdictional amount in controversy including interest and penalties in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workers' compensation law.

(3) At or after the commencement of an action under subsection (2) of this section attachment may be had against the property of the liable subject employer for such contributions, interest and penalties without the execution of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.

(4) An action for the recovery of contributions, interest or penalties under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within five (5) years from the due date of such contributions, except in the case of the filing of a false or fraudulent report the contributions due shall not be barred and may at any time be collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 157. KRS 341.360 is amended to read as follows:

No worker may be paid benefits for any week of unemployment:

(1) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that benefits may be paid unless the employer notifies the ***Office of Employment and Training, Department of Workforce Investment,***~~[department]~~ in writing within seven (7) days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall be denied benefits by reason of a lockout;

(2) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States. But if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply; or

(3) (a) Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in subsection (2) of KRS 341.067 or in an educational institution as defined in subsection (4) of KRS 341.067, begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that the worker will perform such services in any such capacity for any institution or institutions of higher education or an educational institution in the second of such academic years or such terms; or

(b) Which, when based on service other than as defined in paragraph (a) of this subsection, in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, begins during the period between two (2) successive academic years or terms, if the worker performs such services in the first of such academic years or terms and there is a reasonable assurance that the worker will perform such services in the second of such academic years or terms; except that if benefits are denied to any worker under this paragraph and such worker was not offered an opportunity to perform such services for such institution of higher education or such educational institution for the second of such academic years or terms, such worker shall be entitled to a retroactive payment of benefits for each week for which the worker filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph; or

(c) Which, when based on service in any capacity defined in paragraphs (a) and (b) of this subsection, begins during an established and customary vacation period or holiday recess if the worker performs any such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such worker will perform any such services in the period immediately following such vacation period or holiday recess; or

(d) Based on service in any capacity defined in paragraph (a) or (b) of this subsection when such service is performed by the worker in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, while the worker is in the employ of an educational service agency, and such unemployment begins during the periods and pursuant to the conditions specified in paragraphs (a), (b), and (c) of this subsection. For purposes of this paragraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one (1) or more institutions of higher education or educational institutions.

(4) Except that any benefits paid to a worker based on service other than as defined in subsection (3)(a) of this section performed in an institution of higher education as defined in subsection (2) of KRS 341.067 shall be deemed to have been paid as a result of ***Office of Employment and Training, Department of Workforce Investment,***~~[departmental]~~ error and not recoverable by the cabinet or such institution if such payment is improper by virtue of the retroactive application to October 30, 1983, of subsection (3)(b) of this section.

(5) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(6) (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act).

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

(7) With respect to which the worker is suspended from work for misconduct, as defined in KRS 341.370(6), connected with the work.

Section 158. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or

(c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for leaving his next most recent suitable work which was concurrent with his most recent work, or for leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home, or for otherwise accepting work which is a bona fide job offer with a reasonable expectation of continued employment.

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the ***Education*** Cabinet~~[for Workforce Development]~~ and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the ***Education*** Cabinet~~[for Workforce Development]~~ of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.

(5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.

(6) "Discharge for misconduct" as used in this section shall include, but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.

(7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Section 159. KRS 341.420 is amended to read as follows:

(1) The secretary shall appoint one (1) or more impartial referees according to KRS 341.125 to hear and decide appealed

claims.

(2) A party to a determination may file an appeal to a referee as to any matter therein within fifteen (15) days after the date such determination was mailed to his last known address.

(3) If benefits are allowed by a determination of the secretary, or a decision of a referee, ***the commission,*** the secretary or a reviewing-court, such benefits shall be paid promptly without regard to the pendency of an appeal or period for filing an appeal therefrom. If a determination or decision allowing benefits is modified or reversed by a subsequent determination or decision, benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modification or denial. No injunction, supersedeas, stay or other writ or process suspending payment of such benefits shall be issued.

(4) Unless such appeal is withdrawn, a referee, after affording the parties reasonable opportunity for a fair hearing, shall affirm or modify the determination. The parties shall be duly notified of his decision, together with the reasons therefor, which shall be deemed to be the final decision unless within fifteen (15) days after the date of mailing of such decision, further appeal is initiated under KRS 341.430.

(5) No finding of fact or law, judgment, conclusion, or final order made with respect to a claim for unemployment compensation under this chapter may be conclusive or binding in any separate or subsequent action or proceeding in another forum, except proceedings under this chapter, regardless of whether the prior action was between the same or related parties or involved the same facts.

Section 160. KRS 341.410 is amended to read as follows:

The ***secretary***[~~commissioner~~] acting through his duly authorized representatives shall, upon request, determine the insured status of a worker. If a worker is found to have fully insured status, as defined in subsection (3) of KRS 341.090, the division shall notify all interested parties. If found to be not fully insured, the division shall notify the worker. The commissioner may, at any time within a worker's benefit year, make such further determinations as may affect the worker's eligibility for benefits or may set aside, reconsider, modify, or amend a determination at any time on the basis of additional information or to correct a clerical mistake. The commission may by regulation prescribe what constitutes a determination as used in this section and subsections (2) and (3) of KRS 341.420.

Section 161. KRS 341.415 is amended to read as follows:

(1) Any person who has received any sum as benefits under this chapter or any other state's unemployment insurance statutes or any United States Department of Labor unemployment insurance benefit program providing the secretary has signed a reciprocal agreement with such other state or the United States Department of Labor as provided in KRS 341.145, while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, or if he has received benefits in weeks for which he later receives a back pay award, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the ***Office of Employment and Training, Department of Workforce Investment,***[~~department~~] for the fund a sum equal to the amount so received by him. If after due notice the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected in the manner provided in KRS 341.300(2) for collection of past-due contributions and any sums so collected shall be credited to the pooled account or the appropriate reimbursing employer account. However, if the benefit was paid as a result of ***office***[~~departmental~~] error as defined by administrative regulation, there shall be no recoupment or recovery of an improperly paid benefit, except by deduction from any future benefits payable to him under this chapter. For purposes of this section, overpayments as a result of a reversal of entitlement to benefits in the appeal or review process shall not be construed to be the result of ***office***[~~departmental~~] error.

(2) At or after the commencement of an action under subsection (1) of this section, attachment may be had against property of the recipient of improperly paid benefits in the manner provided in KRS 341.300(3).

(3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby created in favor of the department upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined and shall continue until the amount of the overpayment plus any subsequent assessment of additional improperly paid benefits, interest, and fees are fully paid. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.

(4) Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under subsections (1), (2), and (3) of this section, which has neither been repaid nor so deducted within a period of five (5) years following the last day of the benefit year within which it was paid, may be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person within a period of ten (10) years of the last day of the benefit year within which such payments were made at which time these amounts may be declared uncollectible. Nothing in this subsection shall be deemed to affect collection of improperly paid benefits pursuant to a judgment or other legal remedy.

(5) In the event benefits have been paid as a result of false statement, misrepresentation, or concealment of material information by a recipient of benefits and have not been repaid by the recipient within one (1) calendar year from the date of the first notice, interest at the rate of one and five-tenths percent (1.5%) per month or any part thereof, shall be imposed on and added to the unpaid balance each successive month, providing due notice has been given to the recipient. Such interest shall be paid into the unemployment compensation administration account.

(6) The deduction from future benefits specified in subsection (1) of this section shall be limited to twenty-five percent (25%) of the benefit amount otherwise payable under this chapter unless the overpayment resulted from a backpay award, false statement, misrepresentation, or concealment of material information by a recipient of benefits. In these instances, the rate of deduction shall be one hundred percent (100%). The rate of deduction from benefits payable by another state or the United States of America shall be determined by the applicable state or federal statute.

Section 162. KRS 341.440 is amended to read as follows:

(1) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the secretary for determining the rights of the parties, such hearings to be conducted in a summary manner. A complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically, but need not be transcribed unless further appealed. No examiner, referee or member of the commission shall participate in any hearing in which he is an interested party.

(2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430 shall be allowed fees in accordance with rates allowed by law. Such fees and all expenses of proceedings before the ***Office of Employment and Training, Department of Workforce Investment,***[~~department~~] or commission involving disputed claims shall be deemed a part of the expense of administering this chapter.

(3) In the absence of an appeal therefrom, decisions of the commission shall become final twenty (20) days after the date they are made.

Section 163. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. In cases involving awards to a worker by an arbitrator, court, or other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the ***Office of Employment and Training, Department of Workforce Investment***[~~Department for Employment Services, Cabinet for Workforce Development~~] prior to paying any back pay award.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary, or his ***or her*** representatives. Any worker claiming benefits in any proceeding before a referee or the commission may represent himself ***or herself*** or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) (a) Any employer in any proceeding before a referee or the commission may represent himself ***or herself*** or may be represented by counsel or other agent duly authorized by such employer; and

(b) Any person appearing in any proceeding before a referee or the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.

(4) No assignment, pledge, or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392 and withholding for federal and state income tax in accordance with KRS 341.395.

Section 164. KRS 341.530 is amended to read as follows:

(1) The ***Office of Employment and Training, Department of Workforce Investment,***[~~department~~] shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged against the reserve account or reimbursing employer account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive back to the beginning of the worker's base period.

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the ***office***~~[department]~~, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.

(5) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.

(6) Any subject contributing employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary contributions by any employer subject to a minimum rate as provided in KRS 341.270(2) or KRS 341.272(1) shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

Section 165. KRS 341.540 is amended to read as follows:

(1) Any employing unit which succeeds to or acquires the organization, trade, or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including interest, and shall continue the payment of all contributions and interest due under this chapter, except that the successor or acquirer shall not be required to assume the liability of any delinquent contributions and interest of a predecessor or predecessors unless the cabinet notifies the successor or acquirer of the delinquency within six (6) months after the ***Office of Employment and Training, Department of Workforce Investment,***~~[department]~~ has notice of the succession or acquisition.

(2) The liability for delinquent contributions and interest imposed upon the successor or acquirer by subsection (1) of this section shall be secondary to the liability of the predecessor or predecessors, and if the delinquency has been reduced to judgment, the order of execution on the judgment shall be as follows:

(a) Against the assets, both real and personal, of the predecessor or predecessors;

(b) Against the assets, both real and personal, of the business acquired; and

(c) Against the assets, both real and personal, of the successor or acquirer.

(3) Notwithstanding the provisions of subsection (1), any employing unit which succeeds to or acquires a segregable and identifiable portion of the organization, trade, or business from a subject employer, and who is, or by reason of the succession or acquisition becomes, a subject employer, shall assume the position of an employer with respect to the resources and liabilities of the reserve account in proportion to the percentage of the payroll or employees assignable to the transferred portion. In calculating the transferred portion, the secretary shall utilize the last four (4) calendar quarters, preceding the date of succession or acquisition, for workers employed by the successor subsequent to that date. The taxable payroll, benefit charges and the potential benefit charges shall likewise be assumed by the successors or acquirers in interest in a like proportion.

(4) (a) The contribution rate of a successor or acquirer employing unit, whether in whole or in part, which was a subject employer prior to such succession or acquisition, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which such succession or acquisition occurred.

(b) The contribution rate of a successor or acquirer employing unit, either in whole or in part, which was not a subject employer prior to such succession or acquisition, shall be, for the calendar year in which such succession or acquisition occurred, the same rate as that of its predecessor.

(c) The contribution rate for a successor or acquirer employing unit, which was not a subject employer prior to the simultaneous succession to or acquisition of two (2) or more predecessor reserve accounts, either in whole or in part, shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the reserve accounts succeeded to or acquired as they existed as of the computation date for determining rates for the calendar year in which such succession or acquisition occurred.

(d) The contribution rate of a successor or acquirer employing unit which succeeds to or acquires, either in whole or in part, a predecessor's reserve account after a computation date but prior to the beginning of the calendar year immediately following such computation date shall be the rate determined, in accordance with KRS 341.270, by effecting the transfer of such reserve account as of the computation date immediately preceding the date of such succession or acquisition.

Section 166. KRS 341.990 is amended to read as follows:

(1) Any employee of any state ***agency***[~~department~~] who violates any of the provisions of KRS 341.110 to 341.230 shall be guilty of a Class B misdemeanor.

(2) Any person subpoenaed to appear and testify or produce evidence in an inquiry, investigation, or hearing conducted under this chapter who fails to obey the subpoena shall be guilty of a Class B misdemeanor.

(3) Any subject employer, or officer or agent of a subject employer, who violates subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(5) Any person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact to the secretary to obtain or increase any benefit under this chapter or under an employment security law of any other state, or of the federal government, either for himself or for any other person, business entity, or organization shall be guilty of a Class A misdemeanor unless the value of the benefits procured or attempted to be procured is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(6) (a) Any person who knowingly makes a false statement or representation, or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject to this chapter, or to avoid or reduce any payment required of an employing unit under this chapter shall be guilty of a Class A misdemeanor unless the liability avoided or attempted to be avoided is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(b) Any person who willfully fails or refuses to furnish any reports required, or to produce or permit the inspection or copying of records required in this chapter shall be guilty of a Class B misdemeanor. Each such false statement, representation or failure and each day of failure or refusal shall constitute a separate offense.

(7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall be a defense if the person relied on the advice of an employee or agent of the ***Office of Employment and Training, Department of Workforce Investment***[~~department~~].

(8) Any person who willfully violates any provision of this chapter or any rule or regulation under it, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which no specific penalty is prescribed in this chapter or in any other applicable statute, shall be guilty of a violation. Each day the violation continues shall constitute a separate offense.

Section 167. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work

as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~], ***Education*** Cabinet[~~ for Workforce Development~~]. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~] data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 168. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of September 1 preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky Revenue Cabinet shall credit nineteen million dollars ($19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars ($19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars ($4,750,000).

(d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a group self-insurance association.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The ***Office of Employment and Training, Education Cabinet***~~[Department for Employment Services, Cabinet for Workforce Development]~~ is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, group self-insurer, or insurance carrier shall provide any information and submit any reports the Revenue Cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provision of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 169. KRS 342.143 is amended to read as follows:

For the purposes of this chapter, the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage shall be certified to the commissioner by the ***Education*** Cabinet~~[for Workforce Development]~~ in a manner prescribed by the commissioner by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disability in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar ($1) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars ($2) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made. Notwithstanding the provisions of this section, KRS 342.140, 342.740, or any other provisions of this chapter to the contrary, the average weekly wage for calendar years 1995 and 1996 shall be determined to be no higher than the average weekly wage determined by the commissioner to be in effect in the calendar year of 1994. If the average weekly wage calculated by the commissioner is determined to be lower than the 1994 calendar year wage, the average weekly wage may be lowered as provided by this section. Beginning in calendar year 1997 and annually thereafter, the average weekly wage shall be calculated based upon the state average weekly wage in effect two (2) years prior to that calculation.

Section 170. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.

(2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The commissioner shall cooperate on a reciprocal basis with the ***Office***~~[Department]~~ of Vocational Rehabilitation and the ***Office of***~~[Department for]~~ Employment ***and Training***~~[Services]~~ of the ***Education***~~[Kentucky]~~ Cabinet~~[for Workforce Development]~~. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the ***Office***~~[Department]~~ of Vocational Rehabilitation or ***Office of***~~[Department for]~~ Employment ***and Training***~~[Services]~~ following the refusal by the employer or his insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.

(7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly

benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

Section 171. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:

(a) 1. If an employee has a radiographic classification of category 1/0, 1/1 or 1/2, coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks, except as provided in subparagraph 3. of this paragraph.

2. Except as provided in subparagraph 3. of this paragraph, these benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking the equivalent of twelve (12) or more credit hours per week in a bona fide training or education program that if successfully completed will qualify the person completing the course for a trade, occupation, or profession and which program can be completed within the period benefits are payable under this subsection. The program must be approved under administrative regulations to be promulgated by the commissioner. These benefits shall also be paid to an employee who is a part-time student taking not less than the equivalent of six (6) nor more than eleven (11) credit hours per week, except that benefits shall be an amount equal to thirty-three and one-third percent (33-1/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than thirty-seven and one-half percent (37-1/2%) of the state average weekly wage, payable biweekly for a period not to exceed two hundred eight (208) weeks.

3. These benefits shall also be paid biweekly while an employee is actively and successfully pursuing a General Equivalency Diploma (GED) in accordance with administrative regulations promulgated by the commissioner. These benefits shall be paid in the amount of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage not to exceed seventy-five percent (75%) of the state average weekly wage for a maximum period not to exceed seventeen (17) weeks. These income benefits shall be in addition to the maximum amount of retraining incentive benefits payable under this paragraph.

4. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars ($5,000).

5. The period of weeks during which this benefit is payable shall begin no later than the thirtieth day after the administrative law judge's order awarding the benefit becomes final, except that an employee may elect to defer the beginning of such benefits up to the three hundred sixty-fifth day following the thirtieth day the order becomes final. Unless the employee has requested deferral of income benefits, those income benefits payable under subparagraphs 1. and 2. of this paragraph shall begin no later than thirty (30) days following conclusion of income benefits paid under subparagraph 3. if such benefits were paid.

6. If an employee who is awarded retraining incentive benefits under this paragraph successfully completes a bona fide training or education program approved by the commissioner, upon completion of the training or education program, the employer shall pay to that employee the sum of five thousand dollars ($5,000) for successful completion of a program that requires a course of study of not less than twelve (12) months nor more than eighteen (18) months, or the sum of ten thousand dollars ($10,000) for successful completion of a program that requires a course of study of more than eighteen (18) months. This amount shall be in addition to retraining incentive benefits awarded under this paragraph, and tuition expenses paid by the employer.

7. An employee who is age fifty-seven (57) years or older on the date of last exposure and who is awarded retraining incentive benefits under subparagraph 1. to 4. of this paragraph, may elect to receive in lieu of retraining incentive benefits, an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%) for a period not to exceed four hundred twenty-five (425) weeks, or until the employee reaches sixty-five (65) years of age, whichever occurs first, KRS 342.730(4) notwithstanding.

8. A claim for retraining incentive benefits provided under this section may be filed, but benefits shall not be payable, while an employee is employed in the severance or processing of coal as defined in KRS 342.0011(23).

9. If an employer appeals an award of retraining incentive benefits, upon an employee's motion, an administrative law judge may grant retraining incentive benefits pending appeal as interlocutory relief.

10. If an employee elects to defer payment of retraining incentive benefits for a period of retraining longer than three hundred sixty-five (365) days, benefits otherwise payable shall be reduced week-for-week for each week retraining benefits are further deferred.

(b) 1. If an employee has a radiographic classification of category 1/0, 1/1, or 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more of the predicted normal values, there shall be an irrebuttable presumption that the employee has a disability rating of twenty-five percent (25%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.

2. An employee who is awarded benefits under this paragraph may, at the time of the award or before benefit payments begin, elect to receive retraining incentive benefits provided under subparagraphs 1. to 6. of paragraph (a) of this subsection, in lieu of income benefits awarded under this paragraph, provided that such option is available one (1) time only and is not revokable, and provided that in no event shall income benefits payable under this paragraph be stacked or added to retraining incentive income benefits paid or payable under subparagraphs 1. to 6. of paragraph (a) of this subsection to extend the period of disability.

(c) If it is determined that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 3/2 or 3/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, there shall be an irrebuttable presumption that the employee has a disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of fifty percent (50%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.

(d) If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee has a seventy-five percent (75%) disability rating resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of seventy-five percent (75%). The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability.

(e) If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or complicated pneumoconiosis (large opacities category A, B, or C progressive massive fibrosis), there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) Upon request, the commissioner shall refer an employee who has been awarded retraining incentive benefits under subsection (1)(a) of this section to the ***Office***~~[Department]~~ of Vocational Rehabilitation for evaluation and assessment of the training, education, or other services necessary to prepare the employee for a trade, occupation, or profession that will

return the employee to remunerative employment, or services necessary and appropriate to prepare and enable the employee to successfully complete a bona fide training or education program approved by the commissioner. The commissioner shall contract with the ***Office***[~~Department~~] of Vocational Rehabilitation to provide vocational rehabilitation or education services commensurate with the skill levels and abilities of the employee. Services provided under this subsection shall be funded by the coal workers' pneumoconiosis fund, KRS 342. 1242 notwithstanding.

(5) The commissioner shall promulgate administrative regulations sufficient to effectuate the provisions relating to retraining incentive benefits provided under subsection (1)(a) of this section. The administrative regulations shall:

(a) Define a "bona fide training or education program" to mean a postsecondary education or training program, including but not limited to the postsecondary programs registered with the Higher Education Assistance Authority, and successful completion of which will qualify the person completing the course for a trade, occupation, or profession, and which program can be completed within the period benefits are payable under subsection (1)(a) of this section;

(b) Establish requirements for approval and certification of a bona fide training or education program;

(c) Provide that funds paid to the training or education program by the employer as required under subsection (1)(a)4. of this section shall be applied only to instruction, tuition, material costs, and any fees necessary for the completion of the program;

(d) Establish requirements for successful participation in and completion of an approved and certified bona fide training or education program, and eligibility standards that must be satisfied to receive sums to be paid by the employer pursuant to subsection (1)(a)6. of this section; and

(e) Establish attendance, performance and progress standards, and reporting requirements in consultation with the Department of Adult Education and Literacy as conditions that must be satisfied to receive retraining incentive income benefits pursuant to subsection (1)(a)3. of this section.

(6) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability and in no event shall income or retraining incentive benefits be paid to the employee while the employee is working in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a).

Section 172. KRS 342.740 is amended to read as follows:

(1) For the purposes of this chapter, the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. This average weekly wage shall be certified to the commissioner by the ***Education*** Cabinet[~~ for Workforce Development~~] in a manner prescribed by the commissioner by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

(2) Whenever a change in the average weekly wage of the state is of an amount that increases or decreases the minimum weekly income benefits for total disability or death by $1 or more, or the maximum weekly income benefits for total disability or for death by $2 or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in these limitations shall otherwise be made.

Section 173. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless the privilege is expressly granted by the court, the prisoner shall be sentenced to ordinary confinement. The prisoner may petition the sentencing court for the privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.

(3) The jailer shall notify the ***Office of***[~~Department for~~] Employment ***and Training***[~~Services~~], ***Education*** Cabinet,[~~ for~~

~~Workforce Development~~] which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salary shall not be subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section. For tax purposes they shall be the income of the prisoner.

(4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail, for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages, not to exceed forty dollars ($40) per day, but not less than twelve dollars ($12) per day, established by the fiscal court of a county or the urban-county council if an urban-county government. If he defaults, his privilege under this section shall be automatically forfeited. All moneys shall be paid directly to the jailer and paid to the county treasury for use on the jail as provided in KRS 441.206. The fiscal court of a county or the urban-county council if an urban-county government may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that the costs be repaid by the prisoner.

(5) The sentencing court may order the defendant's employer to deduct from the defendant's wages or salary payments for the following purposes:

(a) The board of the prisoner and transportation costs incurred by the county;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(d) The balance, if any, to the prisoner upon his discharge.

(6) The sentencing court shall not direct that any payment authorized under this section be paid through the circuit clerk.

(7) The Department of Corrections shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the Department of Corrections shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

Section 174. KRS 533.210 is amended to read as follows:

(1) The program described in KRS 533.200 shall be administered by the ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy~~] within the ***Council on Postsecondary Education***[~~Cabinet for Workforce Development~~] which shall promulgate administrative regulations, pursuant to KRS Chapter 13A, relative to the conduct of the program including, but not limited to, the costs of participation in the program by persons sentenced to the program.

(2) The ***Kentucky Adult Education Program***[~~Department for Adult Education and Literacy within the Cabinet for Workforce Development~~] shall license qualified persons or organizations to conduct the program described in KRS 533.200 on behalf of the agency. Qualifications, the manner of licensing, and all other matters shall be set by administrative regulation.

Section 175. KRS 151B.400 is repealed and reenacted as a new section of KRS Chapter 164, to read as follows:

The General Assembly of the Commonwealth of Kentucky finds and declares that:

(1) The economic future of the Commonwealth and the prosperity of its citizens depend on the ability of Kentucky businesses to compete effectively in the world economy;

(2) A well-educated and highly trained workforce provides businesses in the Commonwealth with the competitive edge critical for their success; and

(3) Too many adult Kentuckians are not full participants in the labor pool because they lack a high school diploma, its equivalent, or the workplace knowledge necessary to assure self-sufficiency for themselves and their families.

Section 176. 151B.405 is repealed and reenacted as a new section of KRS Chapter 164, to read as follows:

As used in KRS 151B.400 to 151B.410, unless the context indicates otherwise:

(1) "Adult education" means for programs funded under the Federal Workforce Investment Act of 1998, services or instruction below the postsecondary level for individuals:

(a) Who have attained the age of sixteen (16) years of age;

(b) Who are not enrolled or required to be enrolled in secondary school under state law; and

(c) Who:

1. Lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

2. Are unable to speak, read, or write the English language; or

3. Do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education;

(2) "Family literacy services" means services that are of sufficient intensity in terms of hours, and of sufficient duration, to assist a family to make sustainable increases in its literacy level, and integrate the activities described in KRS 158.360; and

(3) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential.

Section 177. The following KRS sections are repealed:

12.401 Office of Early Childhood Development.

151B.023 Department for Adult Education and Literacy.

151B.260 Department for Training and Reemployment -- Appointment of commissioner.

156.120 Superintendent of Public Instruction -- Location of office -- Traveling expenses -- Salary.

156.666 Council for Education Technology -- Membership -- Duties.

200.711 Early Childhood Professional Development Council.

Section 178. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 179. Any provisions of law to the contrary notwithstanding, the General Assembly confirms the Governor's Executive Order 2004-725 dated July 9, 2004 as it relates to the Education Cabinet.

Motions, Petitions and Communications

Senator Jensen moved to be shown as a co-sponsor of **SB 63**. Agreed.

Senator Denton moved to be shown as a co-sponsor of **SB 103**. Agreed.

Senator Ridley moved to adopt **SR 43**. Agreed.

SR 43 is as follows:

SR 43, A RESOLUTION relating to the promotion and preservation of the Trail of Tears National Historic Trail.

WHEREAS, in 1838 the United States Army implemented a federal policy to remove five separate Native American tribes from land east of the Mississippi River to a destination in Oklahoma; and

WHEREAS, more than 16,000 Cherokee Indians were forced to traverse land and water routes encompassing approximately 2,200 miles located in nine states; and

WHEREAS, the impact of the federal policy resulted in the deaths of thousands of Native Americans along these routes now known as the "Trail of Tears"; and

WHEREAS, to commemorate these tragic events, the United States Congress designated the Trail of Tears National Historic Trail in 1987; and

WHEREAS, a portion of the northern route of the Trail of Tears is located in Caldwell, Christian, Crittenden, Livingston, and Todd Counties in Western Kentucky;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, do hereby support the promotion and preservation of the Trail of Tears National Historic Trail in Kentucky.

Section 2. The Senate encourages the Kentucky Commerce Cabinet to develop a map to promote the Trail of Tears automobile tour route located in Kentucky as designated by the National Park Services.

Section 3. The Senate encourages the agencies of state government to assist in the promotion and preservation of the Trail of Tears in a manner consistent with recommendations and guidelines of the National Trail of Tears Association and the National Parks Service.

Section 4. A copy of this Resolution shall be forwarded to Secretary Jim Host, Kentucky Commerce Cabinet, 24th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601 and to Mr. John Humphries, P. O. Box 608, Princton, Kentucky 42445.

Senator Tapp moved to be shown as a co-sponsor of **SB 16**. Agreed.

Senator Tori presented Senate Citation No. 4 and moved its adoption. Agreed.

To All To Whom These Presents Shall Come, Greetings: Know ye that the esteemed participants of Leadership Elizabethtown are recognized and welcomed to the Capitol in Frankfort, Kentucky, during the 2005 Regular Session of the Kentucky General Assembly. Inasmuch as participation in this valuable leadership program reflects extraordinary dedication and exemplary commitment to both education and community, the participants of Leadership Elizabethtown are honored for the initiative and hard work put forth in this worthwhile endeavor; and, on the motion of Senator Elizabeth Tori are hereby deemed by this honorable body most worthy of its recognition.

Done at Frankfort, Kentucky, on this third day of February, in the year two thousand and five.

Senator Buford moved to be shown as a co-sponsor of **SB 23** and **SB 24**. Agreed.

Senator Kerr moved to be shown as a co-sponsor of **SB 103, SB 23, SB 24, SB 25, SB 19,** and **SB 46**. Agreed.

Senator Turner moved to withdraw **SJR 65**. Agreed.

Senator Boswell moved to adopt **SR 61**. Agreed.

SR 61 is as follows:

SR 61, A RESOLUTION adjourning the Senate in loving memory and honor of Carroll Roberts.

With deepest respect and admiration, we pay homage and tribute to Carroll Roberts, and we pause in silent reverence for her soul.

WHEREAS, Carroll Roberts was born on October 10, 1941, a native of Franklin County, Kentucky, and she traversed these earthly bounds on January 10, 2005; and

WHEREAS, Carroll Roberts was the loving daughter of the late Elbert Jack and Maymie Lee Robertson Roberts, and she was also preceded in death by a sister, Francis Marie Roberts; and she was the loving sister of Mae Girkey of Frankfort; and

WHEREAS, Carroll Roberts was a member of Hillcrest Baptist Church; she was a retired Administrator of the Kentucky Board of Hairdressers and Cosmetologists; she was President of the Kentucky Cosmetologist Association and President of the National Cosmetologist Association; and she was a member of the Eastern Star, the Business and Professional Women's Association, and the Democratic Women's Club of Kentucky; and

WHEREAS, the passing of Carroll Roberts has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its profound sense of sorrow upon the passing of Carroll Roberts, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Carroll Roberts.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to Mrs. Mae Girkey, 216 Devils Hollow Road, Frankfort, Kentucky 40601.

Senator Denton moved to adopt **SR 59**. Agreed.

SR 59 is as follows:

SR 59, A RESOLUTION memorializing James L. Meagher.

WHEREAS, James L. Meagher was a longtime resident of the Commonwealth of Kentucky, living in Louisville; and

WHEREAS, James L. Meagher joined the United States Navy in the 1940s, where he engaged in combat in the Pacific Theater; and

WHEREAS, James L. Meagher began his professional career as a traveling salesman with the hardware manufacturer, Stratton & Terstegge, where he proved himself as being an industrious and effective employee, eventually becoming president of the corporation in 1961, and continuing to serve on the corporation's board after merger with C&H Capital Corporation until his retirement; and

WHEREAS, the energy that James L. Meagher exhibited in his occupation was evident in his service with the Bellarmine College's board of trustees where he was president from 1975 to 1977, and where he was a member of the Bellarmine College President's Society; evident in his service on the Spalding and Ursuline college boards; and evident through his successful efforts in fundraising for his alma mater, the University of Notre Dame, where he also served as vice president of the Alumni Board; and

WHEREAS, James L. Meagher also contributed his manifold skills to his community, specifically to the Metro United Way Retirees Campaign, where he served as chair, and by being a founding member of the River Road Country Club as well as serving on the boards of the Louisville Trust and Liberty Bank for many years, including time after their merger; and

WHEREAS, despite the demands placed on him professionally and through his dedication to his community, James L. Meagher realized the value of family, taking great pride in his wife, Floy; his children, Mary-Glen Bradbury, Anne Northup, Virginia Meagher, Alice Lord, Jim Meagher, Jane Meagher, Katherine Hepler, Patty Clare, Maureen Orsini, Mary T. Plant, and

Peggy Saylor; his sister, Margaret Phillips; his 31 grandchildren; and his great grand-child; and

WHEREAS, James L. Meagher was a devout man of God, and an active member of the Holy Trinity Catholic Church; and

WHEREAS, James L. Meagher's daughter, Ann Meagher Northup, was a distinguished member of the House of Representatives of the Kentucky General Assembly from the late 1980s through the mid 1990s; and

WHEREAS, James L. Meagher passed away on January 29, 2005;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate does hereby express its most profound sense of sorrow at the loss of James L. Meagher to his family and to his friends, and furthermore affirms that James L. Meagher approached all he did in a professional manner, bringing his considerable talents and skills to many diverse groups, while never neglecting the family which he loved.

Section 2. The Clerk of the Senate is directed to transmit 15 copies of this Resolution to Mrs. Floy Meagher, 4100 Ormond Road, Louisville, KY, 40207.

The President announced that all members would be listed as co-sponsors of **SR 59**.

Senator Kelly presented Senate Citation No. 3 and moved its adoption. Agreed.

To All To Whom These Presents Shall Come, Greetings: Know ye that the Nominees for the Kentucky Alliance of Boys & Girls Clubs 2005 Kid of the Year Award are paid most ardent tribute for their participation as members of various Boys and Girls Clubs across Kentucky, vital organizations designed to offer programs and services to promote and enhance the development of youth by instilling a sense of competence, usefulness, belonging and influence. Inasmuch as these distinguished honorees have all overcome great personal challenges and obstacles and have gone on to positively contribute to their respective families, schools, communities and clubs, these well-deserving nominees for the 2005 Kid of the Year Award are deeply honored for maintaining tremendous faith and fortitude in the face of adversity; are extended best wishes that they may continue to progress on their chosen paths to personal development and success; and, on the motion of Senator Dan Kelly are hereby deemed by this honorable body most worthy of its recognition.

Done in Frankfort, Kentucky, on this third day of February, in the year two thousand and five.

Introduction of New Bills and Resolutions

SB 108, AN ACT relating to health data collection, by Senator Kerr.

SB 109, AN ACT relating to performance and payment bonds, by Senator Kerr.

SB 1, AN ACT proposing amendments to the Constitution of Kentucky relating to health care matters, by Senator Williams.

SB 110, AN ACT relating to retirement, by Senator Ridley.

SB 111, AN ACT relating to deeds and conveyances, by Senator Seum.

SB 112, AN ACT relating to public campaign finance, by Senator Thayer.

SB 113, AN ACT relating to unemployment insurance, by Senators Kerr and Denton.

SB 114, AN ACT relating to commercial transactions, by Senator Buford.

SB 115, AN ACT relating to toll roads, by Senator Rhoads.

SB 116, AN ACT relating to financial institutions, by Senator Buford.

SB 117, AN ACT relating to credit cards, by Senator Shaughnessy.

SB 118, AN ACT relating to the compensation of sheriffs and other law enforcement officers for serving a Circuit or District Court, by Senator Boswell.

SB 119, AN ACT relating to school-based decision making councils, by Senator McGaha.

SB 120, AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property taxation, by Senator Pendleton.

SB 121, AN ACT relating to hardship driver's licenses, by Senator Turner.

SB 122, AN ACT relating to surgical assistants, by Senator Guthrie.

SB 123, AN ACT relating to administrative regulations, by Senators Roeding, Pendleton, Tapp, and Kerr.

SR 66, A RESOLUTION confirming the appointment of Raymond F. DeSloover to the Board of Directors of the Kentucky Lottery Corporation, by Senator Williams.

SR 67, A RESOLUTION confirming the appointment of Jimmie D. Morgan to the Board of Directors of the Kentucky Lottery Corporation, by Senator Williams.

SJR 68, A JOINT RESOLUTION naming the Eula Hall Highway in Floyd County, by Senator Turner.

SR 69, A RESOLUTION adjourning the Senate in loving memory and honor of Jerry Fonce Howell, by Senators Turner, Jones, Mongiardo, Buford, Ridley, Shaughnessy, Leeper, Pendleton, Worley, Boswell, Kerr, Rhoads, Borders, Sanders, Harper-Angel, Harris, and Stine.

Recess

Senator Kelly moved to recess the Senate for ten minutes for a Committee on Committees meeting and a Committee on Rules meeting in Room 327. Agreed.

The President called the Senate to order.

Reference of Bills and Resolutions

The Clerk reported the following bills and resolutions had been referred by the Committee on Committees:

Appropriations and Revenue: **SB 55, SB 58, SB 60, SB 62, SB 72, SB 75, SB 76, SB 79, SB 85**

Education: **SB 61**

Judiciary: **SB 81, SB 88, SB 90, SB 91, SB 96, SB 103**

Licensing, Occupations, and Administrative Regulations: **SB 78, SB 107**

State and Local Government: **SB 53, SB 54, SB 94**

Transportation: **SB 84**

Veterans, Military Affairs, and Public Protection: **SB 80, SB 82, SB 89**

To Senate Floor: **SR 62**

Rules Committee Report

The Committee on Rules reported **SB 39, SB 41** with Committee Substitute, **SB 43** with Committee Substitute, **SB 44** with Committee Substitute, **SB 49** with Committee Substitute, and **SB 46** with Committee Substitute. Placed in the Orders of the Day for Friday, February 4, 2005.

Adjournment

Senator Kelly moved to adjourn the Senate until 9:00 a.m., Friday, February 4, 2005. Agreed.